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1st Session Third Parliament Trinidad and Tobago  
21 Elizabeth II

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TRINIDAD AND TOBAGO

**Act No. 23 of 1972**

[L.S.]

C.D. 119/72 (339)  
31.7.72

AN ACT to repeal and replace the Industrial Stabilisation Act, 1965, and to make better provision for the stabilisation, improvement and promotion of industrial relations.

[Assented to 16th June, 1972]

WHEREAS it is enacted *inter alia* by subsection (1) of section 5 of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect notwithstanding sections 1 and 2 of the Constitution and, if any such Act does so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 5 of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect notwithstanding sections 1 and 2 of the Constitution:

## Enactment

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same, as follows:

## Short title

1. (1) This Act may be cited as the Industrial Relations Act, 1972.

## Act at variance with Ch. 1 of the Constitution

(2) This Act shall have effect notwithstanding sections 1 and 2 of the Constitution.

## PRELIMINARY

## Interpretation

2. (1) In this Act—

- (a) "bargaining agent" means a trade union certified as such by the Board with respect to a bargaining unit for the purpose of collective bargaining;
- (b) "bargaining unit" means that unit of workers determined by the Board as an appropriate bargaining unit;
- (c) "Board" means the Registration Recognition and Certification Board established under section 21;
- (d) "collective agreement" means an agreement in writing between an employer and the recognised majority union on behalf of workers employed by the employer in a bargaining unit for which the union is certified, containing provisions respecting terms and conditions of employment of the workers and the rights, privileges or duties of the employer or of the recognised majority union or of the workers, and for the regulation of the mutual relationship between an employer and the recognised majority union;

- (e) "collective bargaining" means treating and negotiating with a view to the conclusion of a collective agreement or the revision or renewal thereof or the resolution of disputes;
- (f) "company" means a body corporate and an unincorporated association and includes a partnership and a firm;
- (g) "Constitution" means the Constitution established by the constitutional laws of Trinidad and Tobago;
- (h) "Court" means the Industrial Court established under this Act;
- (i) "employer" means a person who employs a worker and the term shall include—
- (i) such persons acting jointly for the purpose of collective bargaining;
  - (ii) an association or organisation of employers that is a trade union registered under the Trade Unions Ch. 22 No. 9 Ordinance; and
  - (iii) a person for whose benefit work or duties is or are performed by a worker under a labour only contract, within the meaning of subsection (4)(b);
- (j) "essential industry" means an industry specified in Schedule 1; Schedule 1
- (k) "essential services" means the services set out in Schedule 2; Schedule 2
- (l) "former enactments" means the Industrial Stabilisation Act, 1965, and any amendments thereto; Act No. 8 of 1965
- (m) "industrial action" means strikes and lockouts, and any action, including sympathy strikes and secondary boycotts (whether or not done in contemplation of, or in furtherance of, a trade dispute), by an employer or a trade union or other organisation or by any number of workers or other persons to compel any worker, trade union or other organisation, employer or any other person, as the case may be, to agree to terms of employment, or to comply with any demands made by the employer or the trade union or other organisation or by those workers or other persons, and

includes action commonly known as a "sit-down strike", a "go-slow" or a "sick-out", except that the expression does not include—

- (i) a failure to commence work in any agricultural undertaking where work is performed by task caused by a delay in the conclusion of customary arrangements between employers and workers as to the size or nature of a task; and
  - (ii) a failure to commence work or a refusal to continue working by reason of the fact that unusual circumstances have arisen which are hazardous or injurious to health or life;
- (n) "lockout" means the closing of a place of employment or the suspension of work by an employer or the refusal by an employer to employ or continue to employ any number of workers employed by him, done with a view to induce or compel workers employed by him to agree to terms or conditions of, or affecting employment, but does not include the closing of a place of employment for the protection of property or persons therein;
- (o) "Minister" means the member of the Cabinet to whom responsibility for Labour is assigned;
- (p) "office", in relation to a trade union or other organisation means—
- (i) the office of a member of the committee of management of the trade union or other organisation;
  - (ii) the office of president-general, president, vice-president, secretary, assistant-secretary, shop steward or other executive officer, by whatever name called, of the trade union or other organisation;
  - (iii) the office of a person holding, whether as a trustee or otherwise, property of the trade union or other organisation or property in which the trade union or other organisation has any beneficial interest; and

- (iv) every office within the trade union or other organisation for the filling of which an election is conducted within the trade union or other organisation;
- (q) "person" includes a company and a trade union;
- (r) "recognised majority union" means a trade union certified under Part 3 as the bargaining agent for workers comprised in a bargaining unit;
- (s) "Registrar" means the person for the time being performing the duties of Registrar of the Court and includes any Deputy or Assistant Registrar;
- (t) "regulations" means regulations made under this Act;
- (u) "strike" means a cessation of work, a refusal to work, to continue to work or to take up work by workers acting in concert or in accordance with a common understanding, or other concerted activity on the part of workers in contemplation of, or in furtherance of, a trade dispute, except that the expression does not include action commonly known as a "sit-down strike", "go-slow" or "sick-out";
- (v) "trade dispute" or "dispute", subject to subsection (2), means any dispute between an employer and workers of that employer or a trade union on behalf of such workers, connected with the dismissal, employment, non-employment, suspension from employment, refusal to employ, re-employment or reinstatement of any such workers, including a dispute connected with the terms and conditions of the employment or labour of any such workers, and the expression also includes a dispute between workers and workers or trade unions on their behalf as to the representation of a worker (not being a question or difference as to certification of recognition under Part 3):

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(w) "trade union" or "union" means an association or organisation registered as a trade union under the Trade Unions Ordinance, not being an association or organisation of employers registered as a trade union under that Ordinance;

(x) "worker", subject to subsection (3), means—

(i) any person who has entered into or works under a contract with an employer to do any skilled, unskilled, manual, technical, clerical or other work for hire or reward, whether such contract be expressed or implied, oral or in writing, or partly oral and partly in writing, and whether it is a contract of service or apprenticeship or a contract personally to execute any work or labour;

(ii) any person who by any trade usage or custom or as a result of any established pattern of employment or recruitment of labour in any business or industry is usually employed or usually offers himself for and accepts employment accordingly; or

(iii) any person who provides services or performs duties for an employer under a labour only contract, within the meaning of subsection (4)(b);

and includes

(iv) any such person who—

(A) has been dismissed, discharged, retrenched, refused employment, or not employed, whether or not in connection with, or in consequence of, a dispute; or

(B) whose dismissal, discharge, retrenchment or refusal of employment has led to a dispute; or

- (v) any such person who has ceased to work as a result of a lockout or of a strike, whether or not in contravention of Part 5,

as the case may be.

(2) For the purposes of this Act—

- (a) any question or difference as to the interpretation or application of—

- (i) an order or award of the Court, or of any provision thereof; or

- (ii) the provisions of a registered agreement (within the meaning of Part 4), and

- (b) any question or difference as to the amendment of a registered agreement (within the meaning of Part 4),

shall be deemed not to constitute a trade dispute.

(3) For the purposes of this Act, no person shall be regarded as a worker, if he is

- (a) a public officer, as defined by section 105 of the Constitution;

- (b) a member of the Defence Force or any ancillary force or service thereof, or of the Police, Fire or Prison Service or of the Police Force of any Municipality, or a person who is employed as a rural constable or estate constable;

- (c) a member of the Teaching Service as defined in the Education Act, 1966, or is employed in a teaching capacity by a university or other institution of higher learning; Act No. 1 of 1966

- (d) a member of the staff and an employee of the Central Bank established under the Central Bank Act, 1964; No. 23 of 1964

- (e) a person who, in the opinion of the Board, is responsible for, or has an effective voice in, the formulation of policy in any undertaking or business, or the effective control of the whole or any department of any undertaking or business;

- (f) employed in any capacity of a domestic nature, including that of a chauffeur, gardener or handy-man in or about a private dwelling house and paid by the householder;

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(g) an apprentice within the meaning of the Industrial Training Ordinance.

No. 21 of 1965

(4) For the purposes of this Act—

(a) the Chief Personnel Officer, referred to in section 13 of the Civil Service Act, 1965, shall be deemed to be the employer of any worker employed by the Government;

(b) where a person engages the services of a worker for the purpose of providing those services to another, then, such other person shall be deemed to be the employer of the worker under a labour only contract.

(5) Nothing in this Act shall be construed so as to abrogate, abridge or infringe the principle of freedom of association, whether of workers or of employers in trade unions or other associations or organisations, respectively.

Delegation  
by Minister

3. (1) The Minister may, in relation to any matter or class of matters, delegate to any officer or officers within the Ministry of Labour any of his powers or functions under this Act, except this power of delegation, so that the delegated powers or functions may be exercised by such officer or officers with respect thereto.

(2) A delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the Minister.

## PART 1

### THE INDUSTRIAL COURT

#### *Establishment, Jurisdiction and Procedure*

Establishment of  
Industrial Court

4. (1) For the purposes of this Act, there is hereby established an Industrial Court which shall be a superior court of record and shall have in addition to the jurisdiction and powers conferred on it by this Act all the powers inherent in such a court.

(2) The Court shall have an official seal which shall be judicially noticed in all courts.

(3) The Court shall consist of the following members;

(a) a President who shall be—

(i) a Judge of the Supreme Court of Judicature designated, with his consent, by the

Governor-General after consultation with the Chief Justice; or

- (ii) a person who has the qualification (age excepted) to be appointed a Judge of the Supreme Court of Judicature and is appointed by the Governor-General after consultation with the Chief Justice:

Provided that a Judge designated President under subparagraph (i) shall be deemed not to have ceased to hold his substantive office of Judge of the Supreme Court of Judicature by reason only of such designation and the provisions of sections 76(2) and 80(2) of the Constitution shall be deemed to apply to proceedings in the Court;

- (b) a Vice-President, who shall be a barrister or solicitor of not less than ten years standing, appointed by the Governor-General;
- (c) such number of other members as may be determined by the Governor-General from time to time who shall be appointed by the Governor-General from among persons experienced in industrial relations or qualified as economists or accountants, or who are barristers or solicitors of not less than five years standing.

(4) Where for any reason the President is unable to carry out his functions under this Act, the Governor-General may designate the Vice-President to act in his place until the President is again able to carry out such functions or until another person is designated or appointed as President.

(5) Where for any reason the Vice-President is unable to carry out his functions under this Act, the Governor-General may designate a person who is qualified for appointment as such to act in his place until the Vice-President is again able to carry out such functions or until another person is appointed Vice-President.

(6) Subject to subsections (4) and (5), where for any reason any member of the Court, other than the President or Vice-President, is unable to carry out his functions under this Act, the Governor-General may appoint some other duly qualified person to be a member of the Court for the period of such inability.

(7) A person appointed to act under subsection (4), (5) or (6) shall have and exercise the same powers and authority as the member of the Court for whom he is acting.

(8) A member of the Court appointed, other than under subsection (3)(a)(i), may be removed from office during his term of office only for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause or for misbehaviour), but shall not be removed except in accordance with section 76 of the Constitution.

(9) Notwithstanding that his term of office has expired, a member of the Court, other than one designated under subsection (3)(a)(i), may, with the permission of the Governor-General acting in accordance with the advice of the President, continue in office for such period after the end of his term as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before the term of office expired.

(10) The Court shall be deemed to be duly constituted notwithstanding any vacancy in any of the offices referred to in this section.

Period of  
appointment,  
remuneration, etc.

5. (1) The members of the Court appointed, other than under section 4(3)(a)(i), shall be paid such salaries as the Governor-General may determine, and shall hold office for such period, being not less than three or more than five years as is specified in their respective instruments of appointment, but shall be eligible for re-appointment.

(2) The President and other members of the Court shall receive such allowances as may be prescribed by regulations made by the Governor-General.

(3) The salary and allowances payable to a member of the Court appointed, other than under section 4(3)(a)(i), and his other terms of service shall not be altered to his disadvantage after his appointment, and, for the purposes of this subsection, in so far as the terms of service of any person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(4) A member of the Court, other than a person appointed under section 4(3)(a)(i) or the widow, children, dependents or personal representatives of such a member,

may be granted such gratuity, pension or other superannuation benefits as may be prescribed by regulations made by the Governor-General. Any regulations made under this subsection shall be subject to negative resolution of the House of Representatives.

(5) The salaries, allowances, gratuity, pension or other superannuation benefits payable under this section shall be a charge on the Consolidated Fund.

6. There shall be appointed a Registrar and other officers of the Court who shall be public officers. Appointment of Registrar

7. (1) In addition to the powers inherent in it as a superior court of record, the Court shall have jurisdiction— Jurisdiction of Court

- (a) to hear and determine trade disputes;
- (b) to register collective agreements and to hear and determine matters relating to the registration of such agreements;
- (c) to enjoin a trade union or other organisation or workers or other persons or an employer from taking or continuing industrial action;
- (d) to hear and determine proceedings for industrial relations offences under this Act;
- (e) to hear and determine any other matter brought before it, pursuant to the provisions of this Act.

(2) The Court shall have the same power to punish contempts of the Court as is possessed by the High Court of Justice.

(3) Subject to subsection (6), the jurisdiction of the Court in any matter before it may be exercised by one or more members assigned for the purpose by the President; and where more than one member sit there shall be deemed to be established a division of the Court.

(4) In exercising such jurisdiction, the President, Vice-President or a member or a division may sit at such places as the President may consider necessary for the despatch of the business of the Court.

(5) Where in any proceedings before a division of the Court a vacancy occurs in the membership thereof in relation to such proceedings by reason of the inability from any cause of any member to continue to function as a member thereof, the remaining member or members may, subject to subsection (6), continue to hear and determine those proceedings

notwithstanding such vacancy; and no act, proceedings or determination of the division shall be called in question or invalidated by reason of such vacancy.

(6) The jurisdiction of the Court to punish a contempt of the Court committed in the face or hearing of the Court, when constituted by a single member, may be exercised by that member; in any other case, the jurisdiction of the Court to punish a contempt of the Court shall be exercised by a division of the Court consisting of at least two members, one of whom shall be the President or Vice-President.

(7) In addition to any other action which the Court may take for contempt for non-compliance with or non-observance of its orders or awards the Court may impose fines for a contempt consisting of a failure to comply with its orders or awards.

(8) For the purposes of the foregoing provisions of this section a trade union and the holders of office in a trade union or other organisation shall be deemed to be guilty of a breach of an order or award (including an order made under section 65) by which the union or the other organisation is bound, if a worker or other person who is a member of that union or other organisation, respectively, commits that breach by the direction or with the concurrence of any holder of an office in that trade union or other organisation.

(9) All matters brought before a division of the Court shall be determined by a majority of the members thereof and where the members of a division are equally divided the Court shall order a re-hearing of the matter, but so however that no member of the Court previously concerned in a matter shall sit on the re-hearing thereof.

**Procedure**

8. (1) The Court, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders and other matters necessary or proper for the due exercise of its jurisdiction, shall have all such powers, rights, and privileges as are vested in the High Court of Justice on the occasion of an action.

(2) For the purpose of dealing with any matter before it, the Court may of its own motion summon any person who in the opinion of the Court is able to give such information as it considers necessary and may, in addition to and without prejudice to the generality of the foregoing, notwithstanding anything contained in the Income Tax Ordinance or in any other law, require the Board of Inland Revenue or a

Commissioner thereof or any other public officer to produce or make available any information which the Court may consider necessary; and the Court may, in its discretion and subject to such conditions as it may impose, disclose so much as it thinks fit of the information so produced or made available, and the Court may also prohibit the publication of any portion thereof.

(3) Where the Court exercises its power to summon a person to give information under subsection (2), the Court may direct that all or any part of the proceedings in the matter before it, as it may consider proper, be thereafter conducted *in camera*, and in any such case it may enjoin the parties or any of them and any member of the public and officers of the Court from disclosing any such information given in their presence and hearing.

(4) A summons signed by the Registrar shall be equivalent to any formal process issuable in any action taken in the High Court of Justice for enforcing the attendance of witnesses and compelling the production of documents.

(5) The Court may require evidence or argument to be presented in writing and may decide the matters upon which it will hear oral evidence or argument.

(6) The Court may appoint one or more assessors who, in the opinion of the Court, are qualified by reason of their knowledge and experience to assist in the determination of any matter over which it has jurisdiction; and in appointing assessors, the Court shall have regard to any submissions or objections that may be put forward by any party or parties appearing before it.

9. (1) In the hearing and determination of any matter before it, the Court may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the Evidence Ordinance, but the Court may inform itself on any matter in such manner as it thinks just and may take into account opinion evidence and such facts as it considers relevant and material, but in any such case the parties to the proceedings shall be given the opportunity, if they so desire, of adducing evidence in regard thereto.

Court not bound to follow the rules of evidence

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(2) The parties to the proceedings shall be entitled to appear in person or may be assisted in the presentation

of their respective cases by counsel or solicitor or by a duly authorised representative.

## Powers of Court

10. (1) The Court may in relation to any matter before it—

- (a) remit the dispute, subject to such condition as it may determine, to the parties or the Minister for further consideration by them with a view to settling or reducing the several issues in dispute;
- (b) make an order or award (including a provisional or interim order or award) relating to any or all of the matters in dispute or give a direction in pursuance of the hearing or determination;
- (c) without prejudice to and in addition to its powers under section 7(2), (6) and (7), award compensation on complaints brought and proved before it by a party for whose benefit the order or award was made regarding any breach or non-observance of an order or award or any term thereof (other than an order or award for the payment of damages or compensation);
- (d) dismiss any matter or part of a matter or refrain from further hearing or from determining the matter, if it appears that the matter or part thereof is trivial, or that further proceedings are unnecessary or undesirable in the public interest.

(2) The Court shall make no order as to costs in any dispute before it, unless for exceptional reasons the Court considers it proper to order otherwise and, notwithstanding anything to the contrary in the Supreme Court of Judicature Act, 1962, relating to the award of costs, the Court of Appeal shall in disposing of any appeal brought to it from the Court make no order as to costs, unless for exceptional reasons the Court of Appeal considers it proper to order otherwise.

(3) Notwithstanding anything in this Act or in any other rule of law to the contrary, the Court in the exercise of its powers shall—

- (a) make such order or award in relation to a dispute before it as it considers fair and

just, having regard to the interests of the persons immediately concerned and the community as a whole;

- (b) act in accordance with equity, good conscience and the substantial merits of the case before it, having regard to the principles and practices of good industrial relations.

(4) Notwithstanding any rule of law to the contrary, but subject to subsections (5) and (6), in addition to its jurisdiction and powers under this Part, the Court may, in any dispute concerning the dismissal of a worker, order the re-employment or re-instatement (in his former or a similar position) of any worker, subject to such conditions as the Court thinks fit to impose, or the payment of compensation or damages whether or not in lieu of such re-employment or re-instatement, or the payment of exemplary damages in lieu of such re-employment or re-instatement.

(5) An order under subsection (4) may be made where, in the opinion of the Court, a worker has been dismissed in circumstances that are harsh and oppressive or not in accordance with the principles of good industrial relations practice; and in the case of an order for compensation or damages, the Court in making an assessment thereon shall not be bound to follow any rule of law for the assessment of compensation or damages and the Court may make an assessment that is in its opinion fair and appropriate.

(6) The opinion of the Court as to whether a worker has been dismissed in circumstances that are harsh and oppressive or not in accordance with the principles of good industrial relations practice and any order for compensation or damages including the assessment thereof made pursuant to subsection (5) shall not be challenged, appealed against, reviewed, quashed or called in question in any court on any account whatever.

(7) Where, in any proceedings for the non-observance of an order or award or the interpretation or application of a registered agreement (within the meaning of Part 4), it appears to the Court that a worker of the employer has not been paid an amount to which he is entitled under such an order or award or such an agreement the Court, in addition to any other order, may order the employer to pay the worker the amount to which he is entitled and any

such amount shall be deemed to be damages and be recoverable in the manner provided by section 14.

Additional powers  
of Court

11. In addition to the powers conferred on it under the foregoing provisions of this Part, the Court may—

- (a) proceed to hear and determine a trade dispute in the absence of any party who has been duly summoned to appear before the Court and has failed to do so;
- (b) order any person—
  - (i) who in the opinion of the Court may be affected by an order or award; or
  - (ii) who in any other case the Court considers it just to be joined as a party, to be joined as a party to the proceedings under consideration on such terms and conditions as may be prescribed by rules made by the Court;
- (c) generally give all such directions and do all such things as are necessary or expedient for the expeditious and just hearing and determination of the trade dispute or any other matter before it.

Conciliation

12. (1) The Court or any one member exercising jurisdiction in accordance with section 7(3) shall make all such suggestions and do all such things as appear to be right and proper for reconciling the parties.

(2) In any matter before the Court, the President or in his absence the Vice-President may, with a view to the settlement of a dispute by conciliation, take steps or designate one or more members of the Court to take steps to secure such settlement, so however that if the conciliation fails to result in the settlement of the dispute the member who took such steps shall not sit or continue to sit as a member exercising jurisdiction to hear and determine such a dispute.

Court may  
regulate its own  
procedure

13. Subject to this Act, the Court may, by rules, regulate its practice and procedure for the hearing and determination of all matters before it.

14. (1) On the expiration of the time fixed for compliance with an order or award for the payment of compensation, damages or fines, the amount thereof shall become due and payable and is recoverable in the manner provided by this section. Recovery of compensation, damages or fines

(2) Compensation, damages or fines are, upon a certificate issued by the Registrar stating that the amounts specified therein are due and payable under an order or award of the Court,—

(a) recoverable summarily as a civil debt; or

(b) recoverable in the manner provided in subsection (3),

by the person for whose benefit the order or award for such compensation or damages was made or, in the case of an order for a fine, by the Registrar. The certificate of the Registrar under this subsection is conclusive evidence of the matters specified therein.

(3) Upon the filing of a certificate issued under subsection (2) in the Registry of the High Court of Justice, the order or award shall as from the date of filing be of the same force and effect and proceedings may be taken thereon and the order or award may be enforced as if it had been a judgment originally obtained or entered up on the date of filing in the High Court of Justice.

(4) The High Court of Justice shall have the same control and jurisdiction over the order or award as it has over the judgments given by itself, but in so far only as relates to execution.

(5) All costs and charges incurred under this section shall be recoverable in like manner as if included in the certificate.

(6) All fines recoverable by the Registrar under this section shall be paid into the Consolidated Fund.

15. An order or award in any matter referred to the Court for determination may be made operative from such date as the Court may consider fair and just having regard to all the circumstances of the case. Order may be made retroactive

16. (1) Where any question arises as to the interpretation of any order or award of the Court, the Minister or any party to the matter may apply to the Court for a decision on such question and the Court shall decide the matter either after hearing the parties or, without such hearing, Interpretation of orders and of collective agreements

where the consent of the parties has first been obtained. The decision of the Court shall be notified to the parties and shall be binding in the same manner as the decision on the original order or award.

(2) Where there is any question or difference as to the interpretation or application of the provisions of a registered collective agreement (within the meaning of Part 4) any employer or trade union having an interest in the matter or the Minister may make application to the Court for the determination of such question or difference.

(3) The decision of the Court on any matter before it under subsection (2) shall be binding on the parties thereto and is final.

Scope of hearing  
by Court

17. The Court shall expeditiously hear, inquire into and investigate every dispute and all matters affecting the merits of such dispute before it and, without limiting the generality of the foregoing, shall in particular hear, receive and consider submissions, arguments and evidence made, presented or tendered (whether orally or in writing)—

- (a) by or on behalf of the employer concerned;
- (b) by the trade union concerned on behalf of the workers involved in the dispute;
- (c) in the name of the Attorney General, if he has intervened under section 20.

Appeal on point  
of law

18. (1) Subject to subsection (2), the hearing and determination of any proceedings before the Court, and an order or award or any finding or decision of the Court in any matter (including an order or award)—

- (a) shall not be challenged, appealed against, reviewed, quashed or called in question in any court on any account whatever; and
- (b) shall not be subject to prohibition, *mandamus* or injunction in any court on any account whatever.

(2) Subject to this Act, any party to a matter before the Court shall be entitled as of right to appeal to the Court of Appeal on any of the following grounds, but no others—

- (a) that the Court had no jurisdiction in the matter, but so however, that it shall not be competent for the Court of Appeal to entertain

such ground of appeal, unless objection to the jurisdiction of the Court has been formally taken at some time during the progress of the matter before the making of the order or award;

- (b) that the Court has exceeded its jurisdiction in the matter;
- (c) that the order or award has been obtained by fraud;
- (d) that any finding or decision of the Court in any matter is erroneous in point of law; or
- (e) that some other specific illegality, not hereinbefore mentioned, and substantially affecting the merits of the matter, has been committed in the course of the proceedings.

(3) On the hearing of an appeal in any matter brought before it under this Act, the Court of Appeal shall have power—

- (a) if it appears to the Court of Appeal that a new hearing should be held, to set aside the order or award appealed against and order that a new hearing be held; or
- (b) to order a new hearing on any question without interfering with the finding or decision upon any other question,

and the Court of Appeal may make such final or other order as the circumstances of the matter may require.

(4) The Court of Appeal may in any matter brought on appeal before it, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred although it is of the opinion that any point raised in the appeal might have been decided in favour of the appellant.

19. (1) An order or award of the Court shall be binding On whom award to be binding  
on—

- (a) all parties to the dispute who appear or are represented before the Court;
- (b) all persons who have been summoned to appear as parties to the dispute, whether they have appeared or not;
- (c) in the case of employers, any successor to, or assignee of, the business of the employer who is a party bound by such order or award,

including any company that has acquired, or taken over the business of such a party;

- (d) any trade union on whom such order or award is at any time declared by the Court to be binding, as well as on its successors; and
- (e) all workers belonging to a bargaining unit to which such order or award refers.

(2) The Court may, during the course of any dispute pending before it, direct that any successors to, or any assignees of, the business of the employer who is a party to the dispute shall be joined or substituted as a party to the dispute; and any order or award of the Court in such dispute (whenever made) shall, save to the extent that it is otherwise expressly provided in such order or award, be binding on the successors or assignees of that employer.

(3) For the purposes of this section, any question whether a person is the successor to, or an assignee of, another shall be determined by the Court from all the circumstances in accordance with good conscience and the principles of good industrial relations practice and shall be binding on the persons referred to in subsection (1) and is conclusive for all purposes connected with the order or award.

**Intervention by  
the Attorney  
General**

20. (1) Where any dispute is before the Court, the Attorney General may, for the purpose of giving such assistance to the Court as he may be able to provide, intervene, whether at his own instance or at the invitation of the Court, and in particular, the Attorney General may intervene at his own instance in any dispute where it appears to him that some question of public importance or affecting the public interest or both has arisen and that it is fit and proper that the public interest should be represented therein.

(2) Upon any intervention by the Attorney General under subsection (1) it shall be open to him to submit that the Court, in addition to taking into account any submissions, arguments and evidence presented or tendered by or on behalf of the employers concerned and the workers concerned, be guided by the following considerations—

- (a) the necessity to maintain and expand the level of employment;

- (b) the necessity to ensure to workers a fair share of increases in productivity in enterprises;
- (c) the necessity for the establishment and maintenance of reasonable differentials in rewards between different categories of skills;
- (d) the necessity to maintain and improve the standard of living of workers;
- (e) the necessity to preserve and promote the competitive position of products of Trinidad and Tobago in the domestic market as well as in overseas markets;
- (f) the need to ensure the continued ability of the Government of Trinidad and Tobago to finance development programmes in the public sector,

and the Court may take such matters into consideration.

(3) No intervention by the Attorney General shall be taken to cause the Attorney General to become a party to the dispute before the Court, and accordingly no order or award may be made against the Attorney General either in the matter or, subject to section 10(2), as to costs.

(4) Where the Attorney General intervenes in a dispute he may instruct such persons as he thinks fit to appear on his behalf, and any expenses thereby incurred shall be met out of the public funds of Trinidad and Tobago.

## PART 2

### REGISTRATION RECOGNITION AND CERTIFICATION BOARD

#### *Board Established*

21. (1) For the purposes of this Act there is hereby established a Board to be known as the Registration Recognition and Certification Board. <sup>Establishment of Board</sup>

(2) The Board shall consist of a Chairman and eight other members, and the Board shall exercise and perform such functions, duties and powers as are imposed or conferred upon it by this Act or any other enactment.

(3) Subject to this Part, the Minister shall appoint the Chairman and other members of the Board as follows:

- (a) in the case of the Chairman, a fit and proper person selected by the Governor-General after consultation with such organisations or other bodies of persons as in his opinion are the most representative of workers and employers; and
- (b) in the case of the other members of the Board,—
  - (i) three members, being persons nominated by such organisations or other bodies of persons as in the opinion of the Minister are the most representative of workers;
  - (ii) three members, being persons nominated by such organisations or other bodies of persons as in the opinion of the Minister are the most representative of employers; and
  - (iii) two members, being persons jointly nominated by the organisations or other bodies of persons referred to in subparagraphs (i) and (ii).

(4) In respect of each member of the Board (other than the Chairman), the Minister shall in like manner appoint an alternate member, and any such alternate member may, with the approval of the Chairman, act in the stead of the respective member at any one or more meetings of the Board or in addition to such a member, where such member is elected Chairman under section 26(2).

(5) Where for any reason the Chairman is unable to carry out his functions under this Act, the Governor-General may designate a fit and proper person to act in his place until the Chairman is again able to carry out such functions or until another person is appointed as Chairman.

(6) A member of the Board may at any time resign his office by instrument in writing addressed to the Chairman, who shall forthwith cause it to be forwarded to the Minister, and the Chairman may resign his office by instrument in writing addressed to the Minister.

(7) The appointment of any person as Chairman or other member of the Board and the termination of office of

any person as such whether by death, resignation, revocation, effluxion of time or otherwise, shall be notified in the *Gazette*.

(8) Notwithstanding the provisions of section 22(1), the Minister shall revoke the appointment of a member appointed under subsection (3)(b)(i) and (ii) if the respective organisations mentioned therein nominate another person in the stead of such a member.

22. (1) The Chairman and other members of the Board shall be paid such salary and allowances as may be fixed by the Governor-General, and shall hold office for such period, being not more than five years, as is specified in their respective instruments of appointment, and are eligible for reappointment as such. Salary, etc.,  
and terms of office

(2) There shall be a Secretary and other officers of the Board who shall be public officers. Secretary of  
the Board

23. (1) The Board shall be charged with responsibility for— Duties of the  
Board

- (a) the determination of all applications, petitions and matters concerning certification of recognition under Part 3, including the taking of preferential ballots under section 34(2);
- (b) the certification of recognised majority unions; ✓
- (c) the recording of the certification of recognised majority unions in a book to be kept by it for the purpose; ✓
- (d) the making of agency shop orders under Part 6 and the conduct of ballots and proceedings in connection therewith;
- (e) the cancellation of certification of recognition of trade unions; and ✓
- (f) such other matters as are referred or assigned to it by the Minister or under this or any enactment.

(2) Every party to a matter before the Board shall be entitled to appear at the hearing thereof, if any, and may be represented by counsel or solicitor or by a duly authorised representative.

(3) The Board shall determine the periods that are necessary for the fair and adequate presentation of the matter by the respective parties thereto, and the Board may

require those matters to be presented within the respective periods so determined.

(4) The Board may require evidence or arguments to be presented in writing and may decide the matters upon which it will hear oral evidence or arguments.

(5) All applications for certification of recognition and questions as to the appropriateness of bargaining units brought before the Board shall be determined by a majority of the members thereof sitting in accordance with the provisions of this Act and the regulations and any rules made by the Board under section 26(5).

(6) No order or other determination of the Board in any matter brought before it under this Act—

- (a) shall be challenged, appealed against, reviewed, quashed or called in question in any court on any account whatever;
- (b) shall be subject to prohibition, *mandamus* or injunction in any court on any account whatever.

Powers of Board

24. (1) Subject to this section, for the purposes of dealing with any matter brought before it, the Board shall have all such powers, privileges and immunities as are vested in a Commissioner of Enquiry appointed under the Commissions of Enquiry Ordinance, to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise and to call for the production of documents; and the provisions of that Ordinance shall, for the purposes of dealing with such matter and exercising those powers and all other powers necessary or incidental thereto, apply as if expressly enacted herein.

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(2) A summons signed by the Secretary to the Board shall have the same force and effect as any formal process capable of being issued in any action taken in the High Court of Justice for enforcing the attendance of witnesses and compelling the production of documents.

Custody and  
use of seal

25. (1) The Board shall have a seal, which shall be kept in the custody either of the Chairman or of the Secretary, as the Board may determine, and may be affixed to instruments pursuant to rules made by the Board under section 26(5) or to a resolution of the Board, in the presence of the Chairman and of one other member, and the Secretary.

(2) The seal of the Board shall be attested by the signatures of the Chairman and the Secretary.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the Chairman or the Secretary.

(4) Service upon the Board of any notice, orders, or other document shall be effected by delivering the same or by sending it by registered post addressed to the Secretary at the office of the Board.

26. (1) The Board shall meet at such times as are necessary for the expeditious performance of its duties and such meetings shall be held at such place and times and on such days as the Board or the Chairman may determine. <sup>Meetings of the Board</sup>

(2) Where at any meeting of the Board the Chairman is for any reason unable to act as such, then, subject to section 21(5), the members of the Board present at such meeting may, notwithstanding the inability of the Chairman to act for such purpose or for any other purpose, elect one of the members of the Board appointed under section 21(3)(b)(iii) then present to act as Chairman, for the purpose of the conduct of the business of the Board on the agenda for such meeting, including any subsequent meeting to which the said business of the Board so conducted is adjourned.

(3) The Chairman, except in the case provided for in subsection (2), shall preside at all meetings of the Board but may only vote in the case of an equality of votes, when he shall exercise a casting vote; and any person presiding at a meeting pursuant to subsection (2) may himself only vote in the case of an equality of votes, when he shall exercise a casting vote.

(4) The quorum of the Board shall be the Chairman and five other members, and all matters before the Board shall be determined by a majority of the members of the Board present, and entitled (and not otherwise disqualified) to vote.

(5) Subject to this Part, the Board may by rules published in the *Gazette* regulate its own procedure and may make rules providing for the form and manner in which matters may be brought before it and determined.

Prohibition as to  
interest

27. (1) A member of the Board shall not, so long as he is in any way directly or indirectly concerned in any matter before the Board by reason of—

(a) his holding office in, or being a member of, the the claimant union or other union concerned in the matter; or

(b) being the employer or a director, a shareholder, partner or manager of the business of the employer who is concerned in the matter,

take part in any deliberation or decision of the Board on such matter or officiate at any ballot taken by the Board for the purpose of determining such matter.

(2) Nothing in subsection (1)(b) shall apply to any shareholder if the total value of his shareholding does not exceed such amount of the total nominal value of the issued share capital of the company as the rules of procedure of the Board provide.

(3) It shall be open to any member of the Board present at any meeting thereof to challenge the entitlement of any other member of the Board, other than the Chairman, to take part in any deliberation or decision on any matter before the Board, or to officiate at any ballot to be taken by the Board for the purpose of determining such matter, on the ground that such other member is directly or indirectly concerned in the matter before the Board by reason of the circumstances referred to in subsections (1)(a) and (b), or any of them.

(4) Upon any such challenge being taken, it shall be the duty of the Chairman to inquire into the merits thereof and, after giving reasonable opportunity to the member challenged to be heard in answer thereto, the challenge shall be determined by a ruling of the Chairman, which ruling shall be binding and conclusive for all purposes.

(5) Where it is shown to the satisfaction of the Board that a member thereof has failed to comply with the provisions of this section the Board may declare void all proceedings, determinations and other decisions, taken or made on any occasion of such failure to comply with the provisions of this section, but so, however, that no proceedings, determinations or other decisions of the Board taken or made on any occasion of such failure to comply with the provisions of this section shall be, or be deemed to be, invalidated by reason only of such failure to comply with the provisions of this section, unless the Board so declares.

28. (1) The Board or any authorised officer thereof may, on giving twenty-four hours notice in writing of an intention so to do, enter any premises for the purpose of conducting a ballot under Part 3 or Part 6. Power to enter premises

(2) An authorised officer of the Board shall, on demand, produce some duly authenticated document showing his authority to act in pursuance of subsection (1).

(3) Every person who hinders or molests or interferes with any member of the Board or any authorised officer thereof doing anything that he is authorised to do or prevents or attempts to prevent any such person from doing such thing, is guilty of an offence and liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

29. (1) The Board may appoint committees from amongst its members to examine and report to it on any matter whatsoever arising out of or connected with any of its powers and duties under this Act. Appointment of committees

(2) The Board may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations, as the Board may think fit.

(3) For the purpose of the performance of its functions and duties under this Act the Board may co-opt the services of such public officers in the Ministry of Labour as the Minister may from time to time designate.

30. Subject to the provisions of this Act and to the prior approval of the Minister, the Board may delegate to a committee consisting of the Chairman and at least two other members, one each representative of workers and employers, respectively, power and authority to carry out on its behalf such duties and functions and to exercise such powers as the Board may determine, so however that any such delegation shall be revocable at will and shall not preclude the Board from acting from time to time as occasion requires. Power of Board to delegate

31. (1) During the hearing of any matter before the Board, the Board may, in its discretion, on the application of any party to such matter or on its own motion without such application, state a case on any point as to the interpretation or application of this Act or any other enactment or rule of law, for the opinion of the Court. Board may state case to Court

(2) The Court shall hear and determine all questions arising on the case stated, and the determination of the Court on any such questions shall be conclusive for all purposes.

(3) The statement of facts in any case so stated shall, for the purpose of the determination thereof, be conclusive.

### PART 3

#### CERTIFICATION OF RECOGNITION

Certification of  
recognition—  
application for

32. (1) The Board shall expeditiously determine all applications for certification brought before it in accordance with the following provisions of this Part.

(2) Subject to this Act, all trade unions that desire to obtain certification of recognition under this Part shall apply to the Board in writing in accordance with this Part.

(3) An application under subsection (2) shall—

(a) be in the prescribed form; and

(b) describe the proposed bargaining unit in respect of which certification is sought,

and the union making the application (herein referred to as the "claimant union") shall serve a copy of such application on the employer and the Minister.

(4) Subject to this Act, all determinations of applications for certification of recognition under this Part as well as determinations as to the appropriateness of a bargaining unit under section 33 and as to variations thereof under section 39 shall be final for all purposes.

Appropriateness  
of bargaining  
unit

33. (1) The Board shall on any application under section 32(2) first determine the bargaining unit it considers appropriate in the circumstances (hereinafter referred to as the "appropriate bargaining unit") and in so doing the Board shall have regard to—

(a) the community of interest between the workers in the proposed bargaining unit, including work location and methods and periodicity of payment therefor;

(b) the nature and scope of the duties exercised by the workers in the proposed bargaining unit;

(4) Nothing in this section shall be construed so as to permit—

- (a) a union, other than a recognised majority union, to take action by way of strike; or
- (b) an employer to take lockout action in relation to a dispute with his workers who are not represented by a recognised majority union for a bargaining unit of that employer.

(5) Nothing in subsections (2) to (4) shall apply in the case of any unresolved dispute in an essential service between an employer and any trade union, and every such unresolved dispute shall be referred by the Minister to the Court for settlement.

60. (1) Subject to the provisions of this section and of section 59, where there is an unresolved dispute between the employer and the recognised majority union such employer or recognised majority union may take action by way of lockout or strike. Strike or lockout  
action procedures

(2) Where, at any time after a dispute has been reported to the Minister or is deemed to have been so reported, an employer or the recognised majority union intends to take any action referred to in subsection (1), notice of such intention (hereinafter called "lockout notice" or "strike notice", respectively) shall be given to the other party and to the Minister: Provided that any other notice of an intention to take action by way of lockout or strike given before the dispute was first reported to the Minister, or is deemed to have been so reported, as determined *inter alia* by section 57, is void.

(3) No action in pursuance of a lockout notice or strike notice may be taken at any time before the Minister is required to certify under section 59 that the dispute is an unresolved dispute.

(4) No action in pursuance of a lockout notice or strike notice may be taken—

- (a) later than seven days after the date on which the Minister is required to certify under section 59 that the dispute is an unresolved dispute; or
- (b) after both parties in pursuance of the provisions of section 59(3)(a) have requested the Minister to refer the dispute to the Court.

(5) Where one party to a dispute gives lockout notice or strike notice, as the case may be, in conformity with this Part, the other party thereto may, subject to the provisions of this Part and in particular to subsections (3) and (4)(a), take strike or lockout action, respectively, without notice thereof to the other party.

Referral to Court

**61.** The Minister shall refer an unresolved dispute to the Court—

- (a) where no lockout notice or strike notice is given pursuant to the provisions of section 60;
- (b) where no action in pursuance of a lockout notice or strike notice was commenced before the expiration of seven days from the date on which the Minister was required to certify under section 59 that the dispute is an unresolved dispute;
- (c) where, after action in pursuance of a lockout notice or strike notice was taken, there is a joint request to the Minister by the employer and the recognised majority union for referral of the unresolved dispute to the Court.

Strike and lockout action in conformity with this Part

**62.** (1) Where action in pursuance of lockout notice or strike notice takes place in conformity with the provisions of this Part—

- (a) the provisions of a registered agreement (within the meaning of Part 4) if any, between the parties, shall not be taken to have been infringed, abrogated or otherwise set aside by reason only of such action; and
- (b) the contract of employment with respect to every worker employed in the bargaining unit concerned shall not, by reason only of the taking of such action, be deemed to have been determined.

(2) Nothing in subsection (1) shall be construed as imposing on an employer any obligation to pay for any services of a worker that are withheld as a result of strike action taken in conformity with the provisions of this Part.

Industrial action not in conformity with this Part

**63.** (1) Where any industrial action is taken otherwise than in conformity with the provisions of this Part—

- (a) an employer taking such action is guilty of an industrial relations offence and, in addition to any other penalty under subsection (2),

remains liable for the unpaid wages, salary and other remuneration that a worker may reasonably be expected to obtain in respect of any period during which the lockout action took place; and a worker may recover such wages, salary or other remuneration summarily as a civil debt, without prejudice to any other manner in which proceedings may be taken for the recovery thereof;

(b) a trade union taking such action is guilty of an industrial relations offence and, in addition to any other penalty under subsection (2), the Court may order the cancellation of its certificate of recognition, if any;

(c) subject to sections 64 and 65(2)(b), where a worker takes part in such action the employer may treat such action as a fundamental breach of contract going to the root of the contract of employment of such worker.

(2) A person guilty of an industrial relations offence under this section is liable—

(a) in the case of an employer, to a fine of ten thousand dollars; or

(b) in the case of a trade union, to a fine of five thousand dollars.

64. (1) Where a worker is, pursuant to the provisions of section 63(1)(c), dismissed by his employer, or his contract of employment is determined, the recognised majority union or, in the absence of such a union, any trade union, of which the worker is a member, may within fourteen days apply to the Court for an order that the worker is to be treated as having been excused from the consequences of such action as is referred to in section 63(1)(c) and from the operation of section 63(1)(c) and accordingly that the exercise of the power of dismissal or the termination of the contract of employment shall be set aside, Application to the Court to avoid rescission of contract

(2) The Court may upon such application make the order, if it is satisfied that the industrial action by the worker was caused by exceptional circumstances and that it is otherwise fair and just to excuse the worker from the consequences of such action and from the operation of section 63(1)(c).

Stop order in  
the national  
interest

65. (1) Where industrial action is threatened or taken, whether in conformity with the provisions of this Act or otherwise, and the Minister considers that the national interest is threatened or affected thereby, he may make application to the Court *ex parte* for an injunction restraining the parties from commencing or from continuing such action; and the Court may make such order thereon as it considers fit having regard to the national interest.

(2) Where the Court upon such an application makes an order under subsection (1), then—

(a) the parties bound by such an order shall thereupon refrain from, or discontinue, such industrial action; and

(b) unless the Court otherwise specifically orders, nothing in section 63(1)(c) shall apply to any worker involved in such industrial action, and the Court may further order that the matter shall be deemed to have been referred to the Court by the parties thereto for determination.

(3) An order made by the Court under subsection (1) shall be published in the *Gazette* and in at least one daily newspaper circulating in Trinidad and Tobago and such publication shall be deemed to be service of notice thereof on all parties to the dispute, including all workers engaged in the industrial action, whether threatened or taking place.

(4) Subject to the provisions of this section, no order of the Court made under subsection (1) shall be deemed to have validated any action taken if such action was not otherwise in conformity with the provisions of this Part.

Industrial action  
prohibited during  
hearing, etc.

66. (1) No party to a dispute may continue, or take, industrial action while proceedings in relation to a dispute to which that action relates are pending before the Court or the Court of Appeal.

(2) No person may take industrial action as a result of disagreement or dissatisfaction with, an order or award of the Court or the Court of Appeal.

(3) A person who contravenes the provisions of this section is guilty of a contempt of the Court or of the Court of Appeal, as the case may be.

67. (1) The provisions of this section shall be read and construed without prejudice to the provisions of sections 63 and 64, and a reference in those sections and in this section and section 68 to the term "workers" shall be read as a reference to all employees engaged in essential services. Industrial action in essential services, prohibited

(2) An employer or a worker carrying on or engaged in an essential service shall not take industrial action in connection with any such essential service.

(3) An employer who contravenes subsection (2) is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for three years or to both such fine and imprisonment.

(4) A worker who contravenes subsection (2) is liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

(5) A trade union or other organisation, the holder of an office in a trade union or other organisation or any other person who calls for, or causes industrial action to be taken in an essential service or induces or persuades any worker in such service to take such action is guilty of an offence and liable on summary conviction—

(a) in the case of a trade union or other organisation to a fine of ten thousand dollars, and the Board may cancel the certificate of recognition under Part 3;

(b) in the case of the holder of an office in a trade union or other organisation to a fine of five thousand dollars or to imprisonment for twelve months or to both such fine and imprisonment, and such person shall be disqualified from holding office in any trade union or other organisation for a period of five years after conviction therefor; or

(c) in the case of an individual who is not the holder of an office in a trade union or other organisation to a fine of one thousand dollars or to imprisonment for two years or to both such fine and imprisonment.

(6) The Governor-General may by Order, subject to negative resolution of both Houses of Parliament, vary Schedule 2 by adding thereto or removing therefrom any Schedule 2 service.

Offence for persons to contribute financial assistance to promote or support industrial action

68 (1) A person who, for the purpose of promoting or maintaining the conduct of industrial action taken or continued in an essential service contrary to the provisions of this Act, directly or indirectly contributes financial assistance to an employer or a trade union that calls for or causes such action to be taken or to any worker involved in such action, is guilty of an offence and liable on summary conviction to a fine of five thousand dollars or to imprisonment for eighteen months or to both such fine and imprisonment.

(2) An employer or a trade union or other organisation that receives any financial assistance for the purpose of supporting industrial action taken or continued in an essential service contrary to the provisions of this Act is guilty of an offence and liable on summary conviction to a fine of five thousand dollars or in the case of the holder of an office in a trade union to a fine of two thousand, five hundred dollars or to imprisonment for one year or to both such fine and imprisonment.

(3) A worker or other person who receives financial assistance for the purpose of supporting industrial action taken or continued in an essential service contrary to the provisions of this Act is guilty of an offence and liable on summary conviction to a fine of two hundred and fifty dollars or three months' imprisonment or to both such fine and imprisonment.

Persons prohibited from taking industrial action

69. (1) The following persons shall not take part in any industrial action:—

- (a) members of the Public Service in Trinidad and Tobago;
- (b) members of the Prison Service of Trinidad and Tobago;
- (c) members of the Fire Service of Trinidad and Tobago;
- (d) members of the Teaching Service; and
- (e) members of the staff and other employees of the Central Bank, established by the Central Bank Act, 1964.

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(2) A person mentioned in paragraphs (a) to (e), of subsection (1) who contravenes the provisions thereof is guilty of an offence and liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for three months or to both such fine and imprisonment.

(3) The holder of an office in a trade union or in an organisation of persons mentioned in subsection (1) who calls for or causes industrial action to be taken or any person or organisation who induces or persuades any other person to take such action in any of the services mentioned in paragraphs (a) to (e) of subsection (1) is guilty of an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for eighteen months or both such fine and imprisonment.

(4) Section 105 of the Constitution shall have effect for the purpose of the definition of any of the services referred to in subsection (1) (other than in paragraph (e) thereof).

70. Where an offence punishable under this Act has been committed by a company, any person who at the time of the commission of the offence was a director, general manager, secretary or any other employee of the company, not being a worker, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the contravention was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Liability of  
officers of  
companies

## PART 6

### MISCELLANEOUS AND GENERAL

#### *Agency Shop Orders*

71. Every worker as between himself, his employer and co-workers shall have the following rights, that is to say—

Rights of workers  
in respect of trade  
union member-  
ship and activities

- (a) the right to be a member of any trade union or any number of trade unions of his choice;
- (b) the right not to be a member of any trade union or other organisation of workers or to refuse to be a member of any particular trade union or other organisation of workers;
- (c) where he is a member of a trade union, the right, subject to the provisions of this Act, to take part in the activities of such trade union (including any activities as, or with a view to becoming an official of the trade union) and (if appointed or elected) to hold office as such an official.

Definitions relating  
to agency shop  
orders

72. In this Part—

“agency shop order” means an order made by the Board and binding on an employer, the recognised majority union and the workers in the bargaining unit, whereby it is directed in respect of all workers from time to time comprised in the bargaining unit for which the union is certified, that the terms and conditions of employment of those workers shall include a condition that every such worker must pay contribution in accordance with this Part;

“contribution” means the total amount of money specified as being deductible under section 73 (6)(b) and includes any increase in that amount by way of variation of the agency shop order under section 75(3);

“union’s apportionment” means that portion of the contribution that is payable to the union in any event in accordance with section 74(3), that is to say fifty per cent of the contribution.

Agency shop  
orders

73. (1) Subject to the provisions of this Part, a recognised majority union may at any time apply to the Board for an agency shop order, and such application shall state—

- (a) the name and address of the union and of the employer;
- (b) the bargaining unit in respect of which the agency shop order is sought;
- (c) the constitution of the union and in particular the provisions thereof relating to the levying, imposing of payment of dues, subscriptions or levies; and
- (d) the amount of money payable by members of the union for dues, subscriptions and levies, and the times at which those amounts become due and payable.

(2) A copy of an application under subsection (1) shall be served by the union on the employer within twenty-four hours of the making thereof.

(3) Where the Board is satisfied that it is proper to make an agency shop order it shall first make a provisional order for the purpose.

(4) For the purposes of subsection (3), in considering whether to entertain an application, the Board shall have regard generally to all the circumstances surrounding the application and in particular to—

- (a) the admission, subscription and other dues or levies authorised by the rules of the union and the times at which those amounts become due and payable;
- (b) the constitution of the union, with particular reference to the circumstances in which a member may be excused from the payment of dues; and
- (c) the circumstances in which a person may join the union and resign from it.

(5) The Board shall not make a provisional order unless it is satisfied that—

- (a) the holders of offices in the union are elected and removable by simple majority in a democratic manner; and
- (b) that any power to waive the payment of dues payable by the rules of the union is limited to cases of genuine hardship and in accordance with good industrial relations practice.

(6) Where a provisional order is made the order shall state—

- (a) the name and address of the union and the employer;
- (b) the total amount deductible either weekly, fortnightly or monthly, as the case may be;
- (c) the union's apportionment;
- (d) the amount payable under section 74(5) in the absence of an authorisation by a worker to pay the union under section 74(4), being specified as fifty per cent of the contribution.

(7) Where the Board makes a provisional order, it shall, within twenty-eight days of the making thereof, proceed to take a ballot to determine the number of workers comprised in the bargaining unit for which the union is certified who are in favour of the making of a final order on the relevant date determined in accordance with section 36(2).

(8) Where two-thirds or more of the workers comprised in the bargaining unit for which the union is certified vote in favour of the making of a final order the Board shall confirm the provisional order in terms and thereupon the agency shop order shall enter into force, and otherwise the provisional order shall be cancelled.

(9) An agency shop order shall include the matters required by subsection (6) to be stated in a provisional order and shall be issued under the seal of the Board.

(10) No application may be made by a recognized majority union less than two years after the date on which an application under this section was last made with respect to the same bargaining unit or part thereof by that union.

Effect of agency  
shop order

74. (1) Where the Board makes an agency shop order upon an application under section 73(1)

(a) the employer shall comply with the terms and conditions thereof; and

(b) all workers comprised in the bargaining unit for which the union is certified shall pay the sum specified in such order and in the manner therein provided.

(2) Where an agency shop order is made the employer shall, notwithstanding any rule of law to the contrary but subject to the provisions of this Part, deduct the contribution required by the agency shop order to be deducted.

(3) The employer shall, in any event, pay over to the recognised majority union the union's apportionment, that is to say, fifty per cent of the amount of the contribution.

(4) Any worker comprised in the bargaining unit for which the union is certified may on the prescribed form authorise the employer to pay to the recognised majority union the whole of the contribution and the employer shall pay over that amount accordingly.

(5) Where no authorisation is given to an employer pursuant to subsection (4), the remainder of the contribution shall be paid to the Cipriani Labour College established under the Cipriani Labour College Act, 1972, save that the worker may stipulate in writing that the remainder of the contribution shall be paid to a Fund to be called the Industrial Relations Charitable Fund for the use of institutions

Act No. 4 of 1972

or organisations for the physically and mentally handicapped, which Fund is hereby established.

(6) The Fund shall be kept by the Board in a special account with a bank or banks carrying on business in Trinidad and Tobago and shall be administered by the Board.

(7) The accounts of the Fund shall be audited annually by the Auditor General in accordance with Part V of the Exchequer and Audit Ordinance as if the Fund was established under section 48 of that Ordinance.

(8) Where an employer deducts and pays over any contribution in accordance with this section, he shall, as against the worker concerned or any other person who may have become entitled thereto, be acquitted or discharged of so much money as is represented by the full amount of the contribution as if that sum had actually been paid to the worker or other person who may have become entitled thereto.

(9) An employer who fails to comply with the terms and conditions of an agency shop order or with any of the foregoing provisions of this section is guilty of an offence and liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months and in the case of a continuing offence to a further fine of one hundred dollars for each day on which the offence continues after conviction therefor.

75. (1) An agency shop order shall be deemed to be void where the record of certification of the recognised majority union in respect of which it was made is deemed to have been revoked or is cancelled, and any other trade union that is certified as the recognised majority union with respect to the same bargaining unit may apply for the establishment of an agency shop order for the workers comprised in that bargaining unit.

Additional provisions as to agency shop orders

(2) Where an agency shop order is in force the recognised majority union shall represent every worker comprised in the bargaining unit for which it is certified in any dispute in which the worker is concerned and the recognised majority union may not refuse so to represent a worker by reason only of the fact that such worker is not a member of the union; and if a recognised majority union fails so to

represent workers comprised in the bargaining unit for which it is certified the order may, on the application to the Board of any worker thereby aggrieved, be rescinded by the Board.

(3) Where an agency shop order is in force a recognised majority union may at any time, not being earlier than two years after the making of the order, apply to the Board for the variation of the order by way of an increase in the amount of the contribution and, subject to subsection (4), the Board may order the variation of the agency shop order by way of such an increase in the amount of the contributions as it may determine.

(4) In considering an application under subsection (3) the Board shall have regard to:—

- (a) any variation in the circumstances surrounding the affairs of the union or the undertaking concerned or both, occurring since the making of the agency shop order; and
- (b) any increase in the cost of representation of the workers comprised in the bargaining unit for which the union is certified, if it is satisfied that such increase is justifiable,

and the Board shall take a ballot among the workers comprised in the bargaining unit for which the union is certified in order to determine whether those workers are in favour of the proposed increase. Where two-thirds of the workers comprised in the bargaining unit vote in favour of the increase, the Board shall make the variation accordingly save that, in any other case the application shall be refused.

Applications in restraint of agency shop orders and general restrictions thereon

76. (1) Subject to the provisions of this section, at any time when an agency shop order is in force, being not earlier than two years from the date of the making of an agency shop order, any worker comprised in the bargaining unit for which the union is certified may make an application to the Board under this section for the rescission of such an order made under this Part.

(2) The Board shall not entertain such an application under subsection (1) unless it is satisfied that not less than twenty per cent of the workers comprised in the bargaining unit for which the union is certified have signified in writing their concurrence in the application.

(3) Where an application for an agency shop order is entertained the Board shall as soon as possible proceed to take a ballot in order to determine the number of persons in the bargaining unit who are in favour of the application.

(4) Where a majority of the workers comprised in the bargaining unit do not vote in favour of the application the Board shall not rescind the agency shop order to which the application relates and thereupon the application shall be refused.

(5) No application may be made to the Board under this section less than two years after the last application under this section was made with respect to the same agency shop order.

#### *Miscellaneous*

77. (1) A worker who, by deception absents himself from his employment is guilty of an offence and liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months. <sup>Fraudulent  
medical certificates</sup>

(2) A medical practitioner who issues a medical certificate to any worker for the purpose of enabling such worker by deception to absent himself from his employment by means of such certificate is guilty of an offence and liable on summary conviction to a fine of one thousand dollars or to imprisonment for twelve months.

(3) For the purposes of this section a medical practitioner may be held to be guilty of an offence although the worker was not convicted of or did not commit the offence under subsection (1), if, but only if, from all the circumstances of the case the medical practitioner may reasonably be considered to have acted for such purpose as is specified in subsection (2).

(4) In any prosecution for an offence under subsection (2)—

(a) it shall be competent for the prosecution to adduce evidence of all the surrounding circumstances of the case, including the existence of other medical certificates of the medical practitioner issued allegedly for the purpose of enabling the worker or co-workers of the worker in question by deception to absent himself or themselves, respectively, from his or

their employment by means of such certificates; and such evidence shall be admissible notwithstanding any rule of law to the contrary;

- (b) it shall be a defence for a medical practitioner to prove that he did not know and had no reasonable cause to believe that the medical certificate would be used for the purpose of enabling the worker by deception to absent himself from his employment by means of such certificate.

- (5) In this section—

“medical practitioner” means a person registered under the Medical Board Ordinance;

“medical certificate” means a document of a medical practitioner certifying that a person is suffering from physical, mental, nervous or other illness, and recommending or purporting to recommend that some period of time should be spent away from work on account of such illness;

“deception” means the fraudulent or deceitful use of a medical certificate.

Ord. No. 35 of 1960

Prosecution with  
consent of Attorney  
General

78. A prosecution for any contravention of any provision of sections 67 to 69 and section 77 shall not be instituted save by or with the consent of the Attorney General.

Regulations

79. (1) The Governor-General may make such regulations as he considers necessary or expedient for the execution of this Act, and in particular for prescribing anything by this Act required or authorised to be prescribed.

(2) Regulations made by the Governor-General under this section shall be subject to negative resolution of the Senate and the House of Representatives.

(3) Such regulations may contain provisions for imposing on any person contravening the regulations or the Rules made thereunder a fine on summary conviction of five thousand dollars in respect of such offence, and in the case of a continuing offence, a further fine of one hundred dollars for each day during which the offence continues after conviction therefor.

80. (1) There is hereby established an Industrial Relations Advisory Committee (herein referred to as "the Advisory Committee") for the purpose of advising the Minister on any matter relating to industrial relations on which the Minister requests advice and for the purpose of performing the duties referred to in section 81.

Establishment of  
Industrial  
Relations  
Advisory  
Committee

(2) The Advisory Committee shall comprise a Chairman, and such other members as the Governor-General may determine, appointed from among persons representing—

- (a) Workers' Organisations;
- (b) Employers' Organisations;
- (c) public officers; and
- (d) such other persons as he considers fit.

(3) Appointment as a member of the Advisory Committee shall be published in the *Gazette* and shall be for such period as is specified in the instrument of appointment.

81. It shall be the duty of the Advisory Committee to keep this Act under review with a view to ensuring its development and reform, including in particular the modification of any of the provisions thereof and the elimination of anomalies, and for that purpose to prepare and submit to the Minister, from time to time, specific proposals for changes therein.

Functions of  
Advisory  
Committee

82. (1) For the purposes of this Act, there may be established an Office of Economic and Industrial Research.

Economic and  
industrial research

(2) The functions of the office shall be—

- (a) to collect and compile in accordance with the directions of the Court, information which may be of assistance to the Court in the exercise of its powers and functions under this Act;
- (b) to keep information as collected and compiled up to date; and
- (c) to carry out research in respect of such matters as the Court may direct.

(3) Information collected and compiled and the results of research carried out, under this section shall be furnished to any person, trade union or other organisation desiring to obtain that information or those results.

## Annual reports

83. The President of the Court and the Chairman of the Board shall each, once in each year furnish to the Minister, for presentation to Parliament, a report on the working of so much of this Act as falls within the purview of the Court or of the Board, respectively, as well as of so much of this Act (not directly falling within their purview) as may conveniently be dealt with in the respective reports, including in particular, the extent to which the objects of this Act have been achieved.

Industrial relations  
offences  
—procedure

84. (1) All proceedings for the obtaining of an order against any person in respect of an industrial relations offence shall be instituted by an application to the Court by the employer, the recognised majority union concerned, if any, or, where there is no such union, any union which, at the time of the commission of the industrial relations offence had as members of that union workers employed by the employer.

(2) An application under subsection (1) shall be made within three months from the time when the industrial relations offence took place, and not after.

(3) All penalties for industrial relations offences recovered under this Act shall be paid into the Consolidated Fund.

*Commencement, Repeals and Savings*Commencement  
and repeals

85. (1) Subject to the provisions of this Part, this Act shall come into force on a date to be fixed by the Governor-General by Proclamation published in the *Gazette* and the former enactments are repealed as from that day.

(2) Subject to this section, the provisions of the former enactments shall continue to apply—

(a) in relation to matters pending before the Court established by those enactments, as well as to matters on appeal therefrom to the Court of Appeal under those enactments;

(b) in relation to appointments and designations made, notices given, documents delivered, decisions and determinations made (including orders or awards of the Court established under the former enactments) and, subject to subsection (8), and to section 86, other things done under the former enactments,

as if this Act had not been passed.

- (c) the views of the employer and the trade union concerned as to the appropriateness of the bargaining unit;
- (d) the historical development, if any, of collective bargaining in the industry or business to which the proposed bargaining unit belongs;
- (e) any other matters the Board considers to be conducive to good industrial relations.

(2) In considering the appropriateness of a bargaining unit, the Board shall not be restricted by the terms of the application under section 32(3)(b) and may, notwithstanding such terms, determine the bargaining unit most appropriate for the workers of the employer in accordance with subsection (1).

34. (1) Subject to this Act, the Board shall certify as the recognised majority union that trade union which it is satisfied has, on the relevant date, more than fifty per cent of the workers comprised in the appropriate bargaining unit as members in good standing.

(2) Where it appears to the Board that more than one union has as members in good standing more than fifty per cent of the workers comprised in an appropriate bargaining unit it shall certify as the recognised majority union that union which has the greatest support of such workers determined by preferential ballot, being in any event more than fifty per cent of those workers.

(3) All questions as to membership in good standing shall be determined by the Board, so however that a worker shall not be held to be a member in good standing, unless the Board is satisfied that—

- (a) the union of which it is alleged the worker is a member in good standing has followed sound accounting procedures and practices;
- (b) the particular worker has become a member of the union after having paid a reasonable sum by way of entrance fee;
- (c) the worker has actually paid reasonable sums by way of contributions for a continuous period of eight (8) weeks immediately before the claim was made;
- (d) no part of the funds of the union of which it is alleged the worker is a member in good

standing has been applied directly or indirectly in the payment of the entrance fee or contributions referred to in paragraphs (b) and (c); and

- (e) the worker should be considered a member in good standing having regard to good industrial relations practice.

Effect of  
certification

35. Where a trade union is certified under this Part as the recognised majority union—

- (a) such trade union shall immediately replace any other trade union that immediately before such certification was the recognised majority union for the workers comprised in the bargaining unit and, subject to paragraph (c), shall have exclusive authority to bargain collectively on behalf of workers in the bargaining unit and to bind them by a collective agreement registered under Part 4 so long as such certification remains in force;
- (b) if another trade union had previously been certified or was deemed to have been certified under section 86 in respect of workers comprised in the bargaining unit, the certification of the last mentioned trade union shall be deemed to be revoked in respect of such workers; and
- (c) if, at the time of certification, a collective agreement registered under Part 4 or deemed to be so registered is in force, such trade union shall be substituted as a party to the agreement in place of the union that was a party to the agreement on behalf of workers comprised in the bargaining unit.

Construction of  
Part 3

36. (1) Nothing in this Part shall be construed so as to permit the certification of more than one trade union as the recognised majority union for workers comprised in a bargaining unit.

(2) In this Part “relevant date” means such date as the Board considers appropriate for the purpose of determining any matter before it under this Part.

Issuance and  
contents of  
certificate

37. (1) The Board shall issue a certificate under its seal to the union and to the employer in every case in which it certifies a trade union as the recognised majority union.

(2) A certificate under subsection (1) shall contain a statement as to the following particulars:—

- (a) the name of the employer and of the trade union thereby certified;
- (b) the category or categories, if any, of workers comprised in the bargaining unit;
- (c) the number of workers comprised in the bargaining unit at the relevant date;
- (d) such matters other than the foregoing as are prescribed.

38. (1) Subject to this Act, no application for certification of recognition under this Part shall be entertained or proceeded with where—

Applications for certification—  
when entertained

- (a) there is a recognised majority union for the same bargaining unit or any part thereof described in the application for certification; and
- (b) the application is made earlier than two years from the date on which the recognised majority union obtained certification as such, but so, however, that an application may be made with leave of the Court although two years have not expired since such certification was obtained.

(2) Where a union desires to obtain leave of the Court for the purpose of subsection (1)(b) it shall make an application to the Court for the purpose and, if the Court is satisfied that good reasons exist for the application to be made before the expiration of two years from the date when the recognised majority union obtained certification as such, it shall grant leave accordingly.

(3) In determining whether good reasons exist under subsection (2), the question whether the union making the application before the Court has as members in good standing more than fifty per cent of the workers comprised in the bargaining unit for which the recognised majority union is certified, may be taken into account, but may not be the sole reason on which leave is to be granted.

(4) Subject to this Act, and in particular to sections 85 and 86, no application for certification of recognition under this Part shall be considered where the application relates to workers comprised in a bargaining unit in one category of

essential industries and the claimant union is already certified as the recognised majority union for workers comprised in a bargaining unit in another category of essential industries.

Schedule 1

(5) The Governor-General may, subject to affirmative resolution of the House and the Senate, add to, vary or otherwise amend Schedule 1.

(6) Subject to this Act, no application for certification of recognition under this Part may be made by a trade union earlier than six months from the date when application made by that union for certification with respect to the same bargaining unit or any part thereof was last determined or from the date when its certificate of recognition was cancelled.

(7) An application for certification of recognition under this Part once made may not be withdrawn, except by leave of the Board.

Variation of  
bargaining unit  
after certification

39. (1) The bargaining unit and the record of certification of recognition under this Part may be varied in accordance with the provisions of this section.

(2) A petition may be made to the Board not earlier than one year after the certification of recognition—

- (a) by the recognised majority union; or
  - (b) by the employer;
- for variation of a bargaining unit; or
- (c) by workers employed in the bargaining unit for which the union is certified for the exclusion from that bargaining unit of those workers or any of them, on the ground that it is no longer an appropriate bargaining unit in so far as it includes those workers or any of them; or
  - (d) by workers not so employed but employed by the same employer, for their inclusion in the bargaining unit for which the union is certified on the ground that it is an appropriate bargaining unit for the inclusion of those workers.

(3) The Board shall not entertain such a petition under subsection (2)(c) unless it is satisfied that not less than one-twentieth of the workers comprised in the bargaining unit have signified in writing their concurrence in the petition.

(4) Where the Board is satisfied, after having regard to the considerations set out in section 33, on a petition under subsection (2) that workers should be excluded from, or included in, a bargaining unit it may vary the bargaining unit accordingly and make an order for the variation of the certification and record thereof made under section 41.

(5) The certification of a trade union as a recognised majority union shall not be affected by reason only of inclusions in or exclusions from the bargaining unit pursuant to the provisions of this section.

40. (1) Where a trade union obtains certification of recognition for workers comprised in a bargaining unit in accordance with this Part, the employer shall recognise that trade union as the recognised majority union; and such recognised majority union and employer shall, subject to the provisions of this Act, in good faith, treat and enter into negotiations with each other for the purposes of collective bargaining.

Compulsory  
recognition and  
duty to treat

(2) A recognised majority union or an employer that fails to comply with the provisions of this section is guilty of an industrial relations offence and liable to a fine of two thousand dollars.

41. (1) Where a trade union is certified by the Board as the recognised majority union, the particulars referred to in section 37(2) shall be entered in a record of such trade unions to be kept for that purpose by the Board in the prescribed form for the purposes of this Act; and the production of the record or of a copy of the relevant portion thereof, certified by the Secretary of the Board, shall be admissible in all courts and shall be conclusive proof of the matters therein stated.

Recording of  
certification  
effect of

(2) Notwithstanding any rule of law to the contrary, a recognised majority union shall, for the purposes of this Act, be treated as such only when such particulars are recorded under subsection (1) and, subject to section 35, as long as so recorded the trade union shall be deemed to continue always to be the recognised majority union.

42. (1) An employer shall not dismiss a worker, or adversely affect his employment, or alter his position to

Victimization for  
trade union  
activities

his prejudice, by reason only of the circumstance that the worker—

- (a) is an officer, delegate or member of a trade union;
- (b) is entitled to the benefit of an order or award under this Act;
- (c) has appeared as a witness or has given any evidence in a proceeding under this Act, or
- (d) has absented himself from work without leave after he has made an application for leave for the purpose of carrying out his duties as an officer or delegate of a trade union and such leave has been unreasonably refused or withheld.

(2) An employer shall not—

- (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
- (b) dismiss or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours;
- (c) with intent to dissuade or prevent the worker from becoming such officer, delegate or member or from so appearing or giving evidence, threaten to dismiss a worker, or to affect adversely his employment, or to alter his position to his prejudice by reason of the circumstance that the worker is, or proposes to become, an officer, delegate or member of a trade union or that the worker proposes to appear as a witness or to give evidence in any proceeding under this Act.

(3) An employer who contravenes any of the provisions of subsection (1) or (2) is guilty of an offence and liable on summary conviction to a fine of five thousand dollars or to imprisonment for one year or to both such fine and imprisonment; and the Magistrate making the order for conviction may also order that the worker be reimbursed any wages lost by him and direct that, notwithstanding any rule of law to the contrary, the worker be reinstated in his former position or in a similar position.

(4) In any proceedings for an offence under subsection (3), if all the facts and circumstances constituting the offence other than any specific intent, are proved, the defendant may be convicted unless he proves that he did not have the specific intent in question.

(5) Subject to subsection (3), nothing in this section shall be construed so as to compel any employer, in the absence of agreement to the contrary, to pay or compensate any worker for any time not spent in performance of the duties of his employment.

## PART 4

### COLLECTIVE AGREEMENTS

43. (1) A collective agreement shall contain effective provisions concerning appropriate proceedings for avoiding and settling disputes and shall, subject to subsection (3), be for a term to be specified therein, being not less than three years or more than five years. Collective agreements

(2) In addition to the requirements of subsection (1), every collective agreement shall contain a provision for the settlement of all differences between the parties thereto arising out of the interpretation, application, administration or alleged violation thereof. The terms for avoiding and settling disputes contained in any collective agreement deemed to have been registered under this Act by section 85(8) shall be read and construed so as to contain a provision for the settlement of such differences by the Court.

(3) Where—

(a) an undertaking to which a collective agreement relates is likely to cease operations within three years of the date of the agreement; or

(b) a collective agreement contains special provisions which have been agreed upon subject to the condition that such provisions are to have effect for a period less than the duration of the collective agreement,

the Court, on being satisfied that special circumstances for so doing exist, may, subject to this Part, approve of the agreement being made effective for a period of less than three years.

(4) Subject to subsection (5), nothing in this section shall affect or be deemed to affect the validity of a collective agreement which is valid and subsisting immediately before the date of the coming into operation of this Act and registered under the former enactments.

(5) The following terms in any collective agreement are void—

- (a) any provision that any benefits under the agreement are to apply only to members of a particular union;
- (b) any clause excluding or limiting the application of the provision of this Act or the agreement;
- (c) any clause specifying that the employer must employ only members of a particular union or must show any preference or favour regarding recruitment, offer of employment, re-trenchment or termination of employment, only to members of a particular union.

Notice of negotiations to be given to Minister

44. (1) A recognised majority union or employer that proposes to initiate the negotiation of a collective agreement shall send to the Minister particulars of the several matters and things on which agreement is to be negotiated.

Agreement to be submitted to Minister

(2) When in pursuance of negotiations referred to in subsection (1) agreement has been reached on all matters by the parties thereto, the collective agreement shall, upon execution thereof, be transmitted to the Minister together with a request by the parties, or any of them, for the registration of the agreement by the Court.

Procedure by Minister on receipt of agreement

45. (1) Upon the receipt of the collective agreement, the Minister shall consider such agreement and, whether or not he objects to its registration, shall within fourteen days, submit the same to the Court for registration, and the Court shall, subject to section 46, without delay register such agreement.

(2) Where the Minister objects to the registration of the agreement, he shall, within the time limited by subsection (1), forward it to the Court and shall attach thereto a statement of his objections and any other observations he may consider appropriate to make thereon and serve a copy thereof on each of the parties thereto.

(3) Where the collective agreement is not submitted to the Court pursuant to the foregoing provisions of this section within the time limited by subsection (1), either party to the agreement may submit the agreement to the Court for its registration.

(4) The grounds upon which the Minister may object to the registration of a collective agreement may include—

- (a) non-compliance with the provisions of section 43(1) and (2);
- (b) that there is pending before the Board an application for certification with respect to the whole or any part of the bargaining unit to which the collective agreement relates; or
- (c) that there is pending before the Board a petition under section 39 for variation of the bargaining unit to which the collective agreement relates.

46. (1) The Court may with respect to a collective agreement submitted to it under section 45—

Registration of  
collective  
agreement

- (a) register or refuse to register the agreement;
- (b) with the consent of the parties thereto, register the agreement with such amendments or modifications as it may consider necessary and proper;
- (c) subject to such terms and conditions as the Court may impose, refer it back to the parties thereto for further negotiation on matters on which there was a refusal to register; or
- (d) upon failure of the parties to reach an agreement under paragraph (c) register the agreement with such modifications as the Court may think just.

(2) The Court shall, where section 45(2) applies or where of its own motion it refuses to register a collective agreement under subsection (3), summon all the parties to the agreement and shall hear those parties.

(3) The Court may refuse to register a collective agreement if it upholds any objection of the Minister under section 45(4) or on any of the following grounds—

- (a) conflict with any provisions of the Constitution or with this Act or with any other law; or

(b) except in the case of a supplemental agreement, that there is in force a registered agreement relating to part of or the same bargaining unit.

(4) Upon registration of a collective agreement the Court shall submit within seven days a copy of such registered agreement to the Minister and to the parties.

Enforceability of registered agreements

47. (1) The terms and conditions of a collective agreement registered under section 46 (referred to in this Part as a "registered agreement") shall be binding on the parties thereto and shall be directly enforceable, but only in the Court.

(2) The terms and conditions of a registered agreement shall, where applicable, be deemed to be terms and conditions of the individual contract of employment of the workers comprised from time to time in the bargaining unit to which the registered agreement relates.

(3) Registration of a collective agreement shall be deemed to constitute actual notice of all the provisions thereof.

(4) The foregoing provisions of this section shall have effect notwithstanding the provisions of section 6 of the Trade Unions Ordinance, or of any other rule of law to the contrary.

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Parties to a registered agreement

48. (1) For the purposes of section 47, the following persons shall be deemed to be the parties to a registered agreement:—

- (a) the recognised majority union;
- (b) the employer who has entered into the registered agreement or on whose behalf and with whose concurrence such agreement has been entered into;
- (c) any successors to, or, in the case of an employer, assignees of, such employer or recognised majority union, as the case may be.

(2) Notwithstanding the provisions of section 43(1) the terms and conditions of a registered agreement shall, in so far as they relate to procedures for avoiding and settling disputes, be deemed to continue to have full force and effect until another collective agreement between the parties or their successors or, in the case of an employer, assignees, as the case may be, has been registered.

(3) For the purposes of this section any question whether a person is a successor or assignee of another shall be determined by the Court from all the circumstances in accordance with good conscience and the principles of good industrial relations practice and shall be binding on the persons referred to in subsection (1) and is conclusive for all the purposes connected therewith.

49. (1) Notwithstanding section 43(1), but subject to subsection (2), a recognised majority union and an employer <sup>Supplemental agreements</sup> may enter into an agreement supplementary to a collective agreement (herein called a "supplemental agreement") to make provision for matters not dealt with in the existing provisions of such collective agreement.

(2) The provisions of section 43(5) and sections 44 to 48 shall apply to any supplemental agreement entered into under this section.

(3) Any supplemental agreement entered into under this section and registered under section 46 shall be read and construed as one with the collective agreement to which it relates and shall have the same effect in all respects as that collective agreement.

50. An application may be made to the Court by either of the parties to a registered agreement to amend such an agreement for the following purposes only:— <sup>Amendments to registered agreements</sup>

- (a) the correction of any patent error or ambiguity occurring in the registered agreement;
- (b) the inclusion of any matter, agreed upon at the time of the negotiation of such agreement, but inadvertently omitted therefrom;
- (c) the deletion of any matter contained in such agreement, not agreed to at the time of the negotiation of the registered agreement, but inadvertently included therein.

## PART 5

### DISPUTES PROCEDURE

51. (1) Subject to this section, any trade dispute, not otherwise determined or resolved may be reported to the Minister only by— <sup>Reporting of trade disputes</sup>

- (a) the employer;

(b) the recognised majority union;

(c) where there is no recognised majority union any trade union, of which the worker or workers who are parties to the dispute are members in good standing;

and, subject to sections 11(b) and 19, such persons only shall for all the purposes of this Act be treated, respectively, as parties to a dispute; and the Minister shall acknowledge receipt of any such report and deal with it in accordance with the provisions of this Act and the regulations.

(2) All disputes in essential services shall be reported to the Minister by the parties thereto, determined in accordance with subsection (1); and, thereupon, the provisions of this Part shall apply thereto, but subject always to section 59(5).

(3) A trade dispute may not be reported to the Minister if more than six months have elapsed since the issue giving rise to the dispute first arose, save that the Minister may, in any case where he considers it just, extend the time during which a dispute may be so reported to him.

(4) For the purpose of the exercise of his discretion to extend the time during which a dispute may be reported to him under subsection (3), the Minister may refer to the Court any question arising on the exercise of such discretion for its recommendation and advice.

(5) For the purpose of this Act and in particular subsection (1)(c), a trade union other than a recognised majority union, shall be competent to pursue the following types of trade dispute, but no other, in accordance with this Act—

(a) any dispute or difference between the employer and the union or between workers and workers of that employer, in each case being on behalf of members of the union, concerning the application to any such worker of existing terms and conditions of employment or the denial of any right applicable to any such worker in respect of such employment; and

(b) a dispute between the employer and the union as to dismissal, employment, non-employment, suspension from employment, refusal

to employ, re-employment or reinstatement of a worker or workers.

(6) For the purposes of this Part the Minister may refer to the Board for its determination any question whether a person is a member in good standing of the union, and the Board shall determine the question in accordance with the provisions of section 34(3); and a certificate of its determination shall be conclusive for all purposes.

52. (1) A report of a trade dispute shall be made in writing and shall specify the following matters— Contents of report

- (a) the parties to the dispute;
- (b) the address of the principal place of business of each of the parties;
- (c) particulars of the dispute stating in general terms the nature and scope of the dispute; and
- (d) what steps, if any, have been taken for the settlement of the dispute either in accordance with the provisions of a collective agreement registered under Part 4, or otherwise.

(2) Every party reporting a trade dispute shall immediately furnish by hand or by registered post a copy of such report to the other party or parties to the dispute by leaving the same at, or addressing the same to, the principal place of business of the other party. Notice of report of dispute

53. (1) Where a dispute is reported to the Minister under section 51, the Minister may in writing— Powers of the Minister on a report

- (a) in any case request further particulars of any of the matters to be specified under section 52(1);
- (b) insofar as suitable procedures for settling disputes exist between the parties and have not been followed, refer the dispute back to the parties for such procedures to be followed.

(2) Particulars supplied in pursuance of a request by the Minister under subsection (1)(a) shall be subject to the provisions of section 52(2) and shall be read as one with the matters reported under section 52(1).

(3) Where the Minister makes a request for further particulars under subsection (1)(a), the dispute shall be treated as reported to the Minister only on the date on which such particulars were supplied to the Minister.

(4) A dispute referred to the parties in pursuance of subsection (1)(b) shall be deemed not to have been reported to the Minister, and shall be treated as reported to the Minister only on the date when the parties or either of them report that the dispute still exists and the Minister is satisfied that, subject to subsection (5), such suitable procedures as may exist for settling disputes have been followed.

(5) Where the Minister is satisfied that either of the parties to a dispute reported under section 51 refuses to follow such suitable procedures for settling the dispute as may exist, after the dispute was referred to them under subsection (1) (b), he shall so state in writing to the parties, and thereupon the provisions of section 56(2) shall apply as if the Minister had intervened in the dispute under that section.

Referral of  
questions as to  
nature of disputes  
to the Court

54. (1) Where there is any question or difference between an employer and a trade union as to whether a dispute that has been reported is—

(a) one that concerns the application to any worker of that employer of existing terms and conditions of employment or the denial of any right applicable to any such worker in respect of such employment; or

(b) one that concerns the dismissal, employment, non-employment, suspension from employment, refusal to employ, re-employment or reinstatement of any worker of that employer;

either party or the Minister may make application to the Court for the determination thereof and the Court may determine the matter in a summary manner, whether or not by way of hearing witnesses in the matter.

(2) The decision of the Court on any question before it under subsection (1) shall be binding on the parties to such question and is final.

(3) Where a matter is determined by the Court under subsection (1), the dispute shall be deemed to have been first reported to the Minister on the date when the decision of the Court on the question is given.

Action on report  
by Minister

55. (1) The Minister shall as soon as possible after a trade dispute has been reported or deemed to have been reported to him take such steps as he may consider advisable to secure within fourteen days next after the date of the report, a settlement of the dispute by means of conciliation.

(2) The parties to a dispute that has been reported to the Minister may agree in writing to extend the time, specified in subsection (1) (including any further extension of time under this subsection), within which the Minister may take steps to secure a settlement of the dispute by means of conciliation.

(3) Where in pursuance of subsection (2) the parties to a dispute agree to extend the time within which the Minister may take steps to secure by means of conciliation a settlement of the dispute, the Minister may continue to take steps so as to secure a settlement of the dispute.

(4) Notwithstanding the provisions of this Part, where the Minister is satisfied that no useful purpose would be served by continuing to conciliate under this section, he may certify that the dispute is an unresolved dispute pursuant to the provisions of section 59(1).

(5) Where the Minister is satisfied that either party to a dispute that has been reported to him refuses to enter into conciliation under this section in good faith or to carry out any request of the Minister under section 53(1) the Minister may, notwithstanding any provision of this Part to the contrary, certify the dispute as an unresolved dispute under section 59 and refer the matter to the Court.

56. (1) Notwithstanding the provisions of sections 51 to 55, the Minister may intervene in any dispute at any time before a report is made or deemed to have been made for the purpose of advising the parties thereto and of conciliation with a view to the settlement thereof. Intervention by Minister

(2) Where the Minister intervenes in a dispute in pursuance of subsection (1), he shall so advise the parties to the dispute expressly in writing and such a dispute shall be deemed to have been reported pursuant to the provisions of section 51(1), notwithstanding section 51(3).

57. Where under the foregoing provisions of this Part more than one date is to be deemed to be the date when a dispute is first reported to the Minister, the date on which the report shall be considered to have been so made to the Minister shall be the date which is last in point of time. Date of report in certain cases

58. (1) Where a dispute has been determined or resolved (either before or after conciliation by the Minister), the parties shall prepare a memorandum of agreement setting out the terms upon which the agreement was reached and either party may present the memorandum to the Minister Resolved dispute

with a request that it be forwarded to the Court under this section.

(2) Upon receipt of the memorandum referred to in subsection (1), the Minister shall forward it to the Court and the Registrar shall enter the memorandum of agreement as if it was an order or award of the Court and when so entered the memorandum shall have the same force and effect and all proceedings may be taken thereon as upon an order or award of the Court.

Unresolved  
disputes

59. (1) A dispute, reported pursuant to section 51(1) or deemed to have been so reported under this Part, that remains unresolved after the time within which the Minister may take steps by means of conciliation to secure a settlement thereof, including any extension of such time under section 55(2), has expired, shall be so certified in writing by the Minister (referred to in this Part as an "unresolved dispute") and notice thereof served on the parties to the dispute and the Minister may also state any reasons which in his opinion have prevented a settlement.

(2) Where the unresolved dispute concerns the application to any worker of existing terms and conditions of employment or the denial of any right applicable to any worker in respect of his employment or the dismissal, employment, non-employment, suspension from employment, refusal to employ, re-employment or reinstatement of any worker, either party to such a dispute may make application to, or the Minister may refer the matter to, the Court for the determination of the dispute.

(3) Where the unresolved dispute is between the employer and the recognised majority union concerning matters, other than those referred to in subsection (2), such dispute may be dealt with in the following manner—

- (a) where both parties request him so to do, the Minister may refer the dispute to the Court for the determination thereof; or
- (b) either or both of the parties may, subject to the provisions of this Act, take action by way of strike or lockout in accordance with this Part.

(4) Nothing in this section shall be construed so as to permit—

- (a) a union, other than a recognised majority union, to take action by way of strike; or
- (b) an employer to take lockout action in relation to a dispute with his workers who are not represented by a recognised majority union for a bargaining unit of that employer.

(5) Nothing in subsections (2) to (4) shall apply in the case of any unresolved dispute in an essential service between an employer and any trade union, and every such unresolved dispute shall be referred by the Minister to the Court for settlement.

60. (1) Subject to the provisions of this section and of section 59, where there is an unresolved dispute between the employer and the recognised majority union such employer or recognised majority union may take action by way of lockout or strike. Strike or lockout  
action procedures

(2) Where, at any time after a dispute has been reported to the Minister or is deemed to have been so reported, an employer or the recognised majority union intends to take any action referred to in subsection (1), notice of such intention (hereinafter called "lockout notice" or "strike notice", respectively) shall be given to the other party and to the Minister: Provided that any other notice of an intention to take action by way of lockout or strike given before the dispute was first reported to the Minister, or is deemed to have been so reported, as determined *inter alia* by section 57, is void.

(3) No action in pursuance of a lockout notice or strike notice may be taken at any time before the Minister is required to certify under section 59 that the dispute is an unresolved dispute.

(4) No action in pursuance of a lockout notice or strike notice may be taken—

- (a) later than seven days after the date on which the Minister is required to certify under section 59 that the dispute is an unresolved dispute; or
- (b) after both parties in pursuance of the provisions of section 59(3)(a) have requested the Minister to refer the dispute to the Court.

(5) Where one party to a dispute gives lockout notice or strike notice, as the case may be, in conformity with this Part, the other party thereto may, subject to the provisions of this Part and in particular to subsections (3) and (4)(a), take strike or lockout action, respectively, without notice thereof to the other party.

Referral to Court

**61.** The Minister shall refer an unresolved dispute to the Court—

- (a) where no lockout notice or strike notice is given pursuant to the provisions of section 60;
- (b) where no action in pursuance of a lockout notice or strike notice was commenced before the expiration of seven days from the date on which the Minister was required to certify under section 59 that the dispute is an unresolved dispute;
- (c) where, after action in pursuance of a lockout notice or strike notice was taken, there is a joint request to the Minister by the employer and the recognised majority union for referral of the unresolved dispute to the Court.

Strike and lockout action in conformity with this Part

**62.** (1) Where action in pursuance of lockout notice or strike notice takes place in conformity with the provisions of this Part—

- (a) the provisions of a registered agreement (within the meaning of Part 4) if any, between the parties, shall not be taken to have been infringed, abrogated or otherwise set aside by reason only of such action; and
- (b) the contract of employment with respect to every worker employed in the bargaining unit concerned shall not, by reason only of the taking of such action, be deemed to have been determined.

(2) Nothing in subsection (1) shall be construed as imposing on an employer any obligation to pay for any services of a worker that are withheld as a result of strike action taken in conformity with the provisions of this Part.

Industrial action not in conformity with this Part

**63.** (1) Where any industrial action is taken otherwise than in conformity with the provisions of this Part—

- (a) an employer taking such action is guilty of an industrial relations offence and, in addition to any other penalty under subsection (2),

remains liable for the unpaid wages, salary and other remuneration that a worker may reasonably be expected to obtain in respect of any period during which the lockout action took place; and a worker may recover such wages, salary or other remuneration summarily as a civil debt, without prejudice to any other manner in which proceedings may be taken for the recovery thereof;

- (b) a trade union taking such action is guilty of an industrial relations offence and, in addition to any other penalty under subsection (2), the Court may order the cancellation of its certificate of recognition, if any;
- (c) subject to sections 64 and 65(2)(b), where a worker takes part in such action the employer may treat such action as a fundamental breach of contract going to the root of the contract of employment of such worker.

(2) A person guilty of an industrial relations offence under this section is liable—

- (a) in the case of an employer, to a fine of ten thousand dollars; or
- (b) in the case of a trade union, to a fine of five thousand dollars.

64. (1) Where a worker is, pursuant to the provisions of section 63(1)(c), dismissed by his employer, or his contract of employment is determined, the recognised majority union or, in the absence of such a union, any trade union, of which the worker is a member, may within fourteen days apply to the Court for an order that the worker is to be treated as having been excused from the consequences of such action as is referred to in section 63(1)(c) and from the operation of section 63(1)(c) and accordingly that the exercise of the power of dismissal or the termination of the contract of employment shall be set aside,

Application to the Court to avoid rescission of contract

(2) The Court may upon such application make the order, if it is satisfied that the industrial action by the worker was caused by exceptional circumstances and that it is otherwise fair and just to excuse the worker from the consequences of such action and from the operation of section 63(1)(c).

Application to the Court to avoid rescission of contract

Stop order in  
the national  
interest

65. (1) Where industrial action is threatened or taken, whether in conformity with the provisions of this Act or otherwise, and the Minister considers that the national interest is threatened or affected thereby, he may make application to the Court *ex parte* for an injunction restraining the parties from commencing or from continuing such action; and the Court may make such order thereon as it considers fit having regard to the national interest.

(2) Where the Court upon such an application makes an order under subsection (1), then—

(a) the parties bound by such an order shall thereupon refrain from, or discontinue, such industrial action; and

(b) unless the Court otherwise specifically orders, nothing in section 63(1)(c) shall apply to any worker involved in such industrial action, and the Court may further order that the matter shall be deemed to have been referred to the Court by the parties thereto for determination.

(3) An order made by the Court under subsection (1) shall be published in the *Gazette* and in at least one daily newspaper circulating in Trinidad and Tobago and such publication shall be deemed to be service of notice thereof on all parties to the dispute, including all workers engaged in the industrial action, whether threatened or taking place.

(4) Subject to the provisions of this section, no order of the Court made under subsection (1) shall be deemed to have validated any action taken if such action was not otherwise in conformity with the provisions of this Part.

Industrial action  
prohibited during  
hearing, etc.

66. (1) No party to a dispute may continue, or take, industrial action while proceedings in relation to a dispute to which that action relates are pending before the Court or the Court of Appeal.

(2) No person may take industrial action as a result of disagreement or dissatisfaction with, an order or award of the Court or the Court of Appeal.

(3) A person who contravenes the provisions of this section is guilty of a contempt of the Court or of the Court of Appeal, as the case may be.

67. (1) The provisions of this section shall be read and construed without prejudice to the provisions of sections 63 and 64, and a reference in those sections and in this section and section 68 to the term "workers" shall be read as a reference to all employees engaged in essential services. Industrial action in essential services, prohibited

(2) An employer or a worker carrying on or engaged in an essential service shall not take industrial action in connection with any such essential service.

(3) An employer who contravenes subsection (2) is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for three years or to both such fine and imprisonment.

(4) A worker who contravenes subsection (2) is liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

(5) A trade union or other organisation, the holder of an office in a trade union or other organisation or any other person who calls for, or causes industrial action to be taken in an essential service or induces or persuades any worker in such service to take such action is guilty of an offence and liable on summary conviction—

(a) in the case of a trade union or other organisation to a fine of ten thousand dollars, and the Board may cancel the certificate of recognition under Part 3;

(b) in the case of the holder of an office in a trade union or other organisation to a fine of five thousand dollars or to imprisonment for twelve months or to both such fine and imprisonment, and such person shall be disqualified from holding office in any trade union or other organisation for a period of five years after conviction therefor; or

(c) in the case of an individual who is not the holder of an office in a trade union or other organisation to a fine of one thousand dollars or to imprisonment for two years or to both such fine and imprisonment.

(6) The Governor-General may by Order, subject to negative resolution of both Houses of Parliament, vary Schedule 2 by adding thereto or removing therefrom any service. Schedule 2

Offence for persons to contribute financial assistance to promote or support industrial action

68 (1) A person who, for the purpose of promoting or maintaining the conduct of industrial action taken or continued in an essential service contrary to the provisions of this Act, directly or indirectly contributes financial assistance to an employer or a trade union that calls for or causes such action to be taken or to any worker involved in such action, is guilty of an offence and liable on summary conviction to a fine of five thousand dollars or to imprisonment for eighteen months or to both such fine and imprisonment.

(2) An employer or a trade union or other organisation that receives any financial assistance for the purpose of supporting industrial action taken or continued in an essential service contrary to the provisions of this Act is guilty of an offence and liable on summary conviction to a fine of five thousand dollars or in the case of the holder of an office in a trade union to a fine of two thousand, five hundred dollars or to imprisonment for one year or to both such fine and imprisonment.

(3) A worker or other person who receives financial assistance for the purpose of supporting industrial action taken or continued in an essential service contrary to the provisions of this Act is guilty of an offence and liable on summary conviction to a fine of two hundred and fifty dollars or three months' imprisonment or to both such fine and imprisonment.

Persons prohibited from taking industrial action

69. (1) The following persons shall not take part in any industrial action:—

- (a) members of the Public Service in Trinidad and Tobago;
- (b) members of the Prison Service of Trinidad and Tobago;
- (c) members of the Fire Service of Trinidad and Tobago;
- (d) members of the Teaching Service; and
- (e) members of the staff and other employees of the Central Bank, established by the Central Bank Act, 1964.

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(2) A person mentioned in paragraphs (a) to (e), of subsection (1) who contravenes the provisions thereof is guilty of an offence and liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for three months or to both such fine and imprisonment.

(3) The holder of an office in a trade union or in an organisation of persons mentioned in subsection (1) who calls for or causes industrial action to be taken or any person or organisation who induces or persuades any other person to take such action in any of the services mentioned in paragraphs (a) to (e) of subsection (1) is guilty of an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for eighteen months or both such fine and imprisonment.

(4) Section 105 of the Constitution shall have effect for the purpose of the definition of any of the services referred to in subsection (1) (other than in paragraph (e) thereof).

70. Where an offence punishable under this Act has been committed by a company, any person who at the time of the commission of the offence was a director, general manager, secretary or any other employee of the company, not being a worker, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the contravention was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Liability of  
officers of  
companies

## PART 6

### MISCELLANEOUS AND GENERAL

#### *Agency Shop Orders*

71. Every worker as between himself, his employer and co-workers shall have the following rights, that is to say—
- (a) the right to be a member of any trade union or any number of trade unions of his choice;
  - (b) the right not to be a member of any trade union or other organisation of workers or to refuse to be a member of any particular trade union or other organisation of workers;
  - (c) where he is a member of a trade union, the right, subject to the provisions of this Act, to take part in the activities of such trade union (including any activities as, or with a view to becoming an official of the trade union) and (if appointed or elected) to hold office as such an official.

Rights of workers  
in respect of trade  
union member-  
ship and activities

Definitions relating  
to agency shop  
orders

72. In this Part—

“agency shop order” means an order made by the Board and binding on an employer, the recognised majority union and the workers in the bargaining unit, whereby it is directed in respect of all workers from time to time comprised in the bargaining unit for which the union is certified, that the terms and conditions of employment of those workers shall include a condition that every such worker must pay contribution in accordance with this Part;

“contribution” means the total amount of money specified as being deductible under section 73 (6)(b) and includes any increase in that amount by way of variation of the agency shop order under section 75(3);

“union’s apportionment” means that portion of the contribution that is payable to the union in any event in accordance with section 74(3), that is to say fifty per cent of the contribution.

Agency shop  
orders

73. (1) Subject to the provisions of this Part, a recognised majority union may at any time apply to the Board for an agency shop order, and such application shall state—

- (a) the name and address of the union and of the employer;
- (b) the bargaining unit in respect of which the agency shop order is sought;
- (c) the constitution of the union and in particular the provisions thereof relating to the levying, imposing of payment of dues, subscriptions or levies; and
- (d) the amount of money payable by members of the union for dues, subscriptions and levies, and the times at which those amounts become due and payable.

(2) A copy of an application under subsection (1) shall be served by the union on the employer within twenty-four hours of the making thereof.

(3) Where the Board is satisfied that it is proper to make an agency shop order it shall first make a provisional order for the purpose.

(4) For the purposes of subsection (3), in considering whether to entertain an application, the Board shall have regard generally to all the circumstances surrounding the application and in particular to—

- (a) the admission, subscription and other dues or levies authorised by the rules of the union and the times at which those amounts become due and payable;
- (b) the constitution of the union, with particular reference to the circumstances in which a member may be excused from the payment of dues; and
- (c) the circumstances in which a person may join the union and resign from it.

(5) The Board shall not make a provisional order unless it is satisfied that—

- (a) the holders of offices in the union are elected and removable by simple majority in a democratic manner; and
- (b) that any power to waive the payment of dues payable by the rules of the union is limited to cases of genuine hardship and in accordance with good industrial relations practice.

(6) Where a provisional order is made the order shall state—

- (a) the name and address of the union and the employer;
- (b) the total amount deductible either weekly, fortnightly or monthly, as the case may be;
- (c) the union's apportionment;
- (d) the amount payable under section 74(5) in the absence of an authorisation by a worker to pay the union under section 74(4), being specified as fifty per cent of the contribution.

(7) Where the Board makes a provisional order, it shall, within twenty-eight days of the making thereof, proceed to take a ballot to determine the number of workers comprised in the bargaining unit for which the union is certified who are in favour of the making of a final order on the relevant date determined in accordance with section 36(2).

(8) Where two-thirds or more of the workers comprised in the bargaining unit for which the union is certified vote in favour of the making of a final order the Board shall confirm the provisional order in terms and thereupon the agency shop order shall enter into force, and otherwise the provisional order shall be cancelled.

(9) An agency shop order shall include the matters required by subsection (6) to be stated in a provisional order and shall be issued under the seal of the Board.

(10) No application may be made by a recognized majority union less than two years after the date on which an application under this section was last made with respect to the same bargaining unit or part thereof by that union.

Effect of agency  
shop order

74. (1) Where the Board makes an agency shop order upon an application under section 73(1)

(a) the employer shall comply with the terms and conditions thereof; and

(b) all workers comprised in the bargaining unit for which the union is certified shall pay the sum specified in such order and in the manner therein provided.

(2) Where an agency shop order is made the employer shall, notwithstanding any rule of law to the contrary but subject to the provisions of this Part, deduct the contribution required by the agency shop order to be deducted.

(3) The employer shall, in any event, pay over to the recognised majority union the union's apportionment, that is to say, fifty per cent of the amount of the contribution.

(4) Any worker comprised in the bargaining unit for which the union is certified may on the prescribed form authorise the employer to pay to the recognised majority union the whole of the contribution and the employer shall pay over that amount accordingly.

(5) Where no authorisation is given to an employer pursuant to subsection (4), the remainder of the contribution shall be paid to the Cipriani Labour College established under the Cipriani Labour College Act, 1972, save that the worker may stipulate in writing that the remainder of the contribution shall be paid to a Fund to be called the Industrial Relations Charitable Fund for the use of institutions

Act No. 4 of 1972

or organisations for the physically and mentally handicapped, which Fund is hereby established.

(6) The Fund shall be kept by the Board in a special account with a bank or banks carrying on business in Trinidad and Tobago and shall be administered by the Board.

(7) The accounts of the Fund shall be audited annually by the Auditor General in accordance with Part V of the Exchequer and Audit Ordinance as if the Fund was established under section 48 of that Ordinance.

(8) Where an employer deducts and pays over any contribution in accordance with this section, he shall, as against the worker concerned or any other person who may have become entitled thereto, be acquitted or discharged of so much money as is represented by the full amount of the contribution as if that sum had actually been paid to the worker or other person who may have become entitled thereto.

(9) An employer who fails to comply with the terms and conditions of an agency shop order or with any of the foregoing provisions of this section is guilty of an offence and liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months and in the case of a continuing offence to a further fine of one hundred dollars for each day on which the offence continues after conviction therefor.

75. (1) An agency shop order shall be deemed to be void where the record of certification of the recognised majority union in respect of which it was made is deemed to have been revoked or is cancelled, and any other trade union that is certified as the recognised majority union with respect to the same bargaining unit may apply for the establishment of an agency shop order for the workers comprised in that bargaining unit.

Additional provisions as to agency shop orders

(2) Where an agency shop order is in force the recognised majority union shall represent every worker comprised in the bargaining unit for which it is certified in any dispute in which the worker is concerned and the recognised majority union may not refuse so to represent a worker by reason only of the fact that such worker is not a member of the union; and if a recognised majority union fails so to

represent workers comprised in the bargaining unit for which it is certified the order may, on the application to the Board of any worker thereby aggrieved, be rescinded by the Board.

(3) Where an agency shop order is in force a recognised majority union may at any time, not being earlier than two years after the making of the order, apply to the Board for the variation of the order by way of an increase in the amount of the contribution and, subject to subsection (4), the Board may order the variation of the agency shop order by way of such an increase in the amount of the contributions as it may determine.

(4) In considering an application under subsection (3) the Board shall have regard to:—

- (a) any variation in the circumstances surrounding the affairs of the union or the undertaking concerned or both, occurring since the making of the agency shop order; and
- (b) any increase in the cost of representation of the workers comprised in the bargaining unit for which the union is certified, if it is satisfied that such increase is justifiable,

and the Board shall take a ballot among the workers comprised in the bargaining unit for which the union is certified in order to determine whether those workers are in favour of the proposed increase. Where two-thirds of the workers comprised in the bargaining unit vote in favour of the increase, the Board shall make the variation accordingly save that, in any other case the application shall be refused.

Applications in restraint of agency shop orders and general restrictions thereon

76. (1) Subject to the provisions of this section, at any time when an agency shop order is in force, being not earlier than two years from the date of the making of an agency shop order, any worker comprised in the bargaining unit for which the union is certified may make an application to the Board under this section for the rescission of such an order made under this Part.

(2) The Board shall not entertain such an application under subsection (1) unless it is satisfied that not less than twenty per cent of the workers comprised in the bargaining unit for which the union is certified have signified in writing their concurrence in the application.

(3) Where an application for an agency shop order is entertained the Board shall as soon as possible proceed to take a ballot in order to determine the number of persons in the bargaining unit who are in favour of the application.

(4) Where a majority of the workers comprised in the bargaining unit do not vote in favour of the application the Board shall not rescind the agency shop order to which the application relates and thereupon the application shall be refused.

(5) No application may be made to the Board under this section less than two years after the last application under this section was made with respect to the same agency shop order.

#### *Miscellaneous*

77. (1) A worker who, by deception absents himself from his employment is guilty of an offence and liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months. <sup>Fraudulent</sup> <sup>medical certificates</sup>

(2) A medical practitioner who issues a medical certificate to any worker for the purpose of enabling such worker by deception to absent himself from his employment by means of such certificate is guilty of an offence and liable on summary conviction to a fine of one thousand dollars or to imprisonment for twelve months.

(3) For the purposes of this section a medical practitioner may be held to be guilty of an offence although the worker was not convicted of or did not commit the offence under subsection (1), if, but only if, from all the circumstances of the case the medical practitioner may reasonably be considered to have acted for such purpose as is specified in subsection (2).

(4) In any prosecution for an offence under subsection (2)—

(a) it shall be competent for the prosecution to adduce evidence of all the surrounding circumstances of the case, including the existence of other medical certificates of the medical practitioner issued allegedly for the purpose of enabling the worker or co-workers of the worker in question by deception to absent himself or themselves, respectively, from his or

their employment by means of such certificates; and such evidence shall be admissible notwithstanding any rule of law to the contrary;

(b) it shall be a defence for a medical practitioner to prove that he did not know and had no reasonable cause to believe that the medical certificate would be used for the purpose of enabling the worker by deception to absent himself from his employment by means of such certificate.

(5) In this section—

“medical practitioner” means a person registered under the Medical Board Ordinance;

“medical certificate” means a document of a medical practitioner certifying that a person is suffering from physical, mental, nervous or other illness, and recommending or purporting to recommend that some period of time should be spent away from work on account of such illness;

“deception” means the fraudulent or deceitful use of a medical certificate.

Ord. No. 35 of 1960

Prosecution with  
consent of Attorney  
General

78. A prosecution for any contravention of any provision of sections 67 to 69 and section 77 shall not be instituted save by or with the consent of the Attorney General.

Regulations

79. (1) The Governor-General may make such regulations as he considers necessary or expedient for the execution of this Act, and in particular for prescribing anything by this Act required or authorised to be prescribed.

(2) Regulations made by the Governor-General under this section shall be subject to negative resolution of the Senate and the House of Representatives.

(3) Such regulations may contain provisions for imposing on any person contravening the regulations or the Rules made thereunder a fine on summary conviction of five thousand dollars in respect of such offence, and in the case of a continuing offence, a further fine of one hundred dollars for each day during which the offence continues after conviction therefor.

80. (1) There is hereby established an Industrial Relations Advisory Committee (herein referred to as "the Advisory Committee") for the purpose of advising the Minister on any matter relating to industrial relations on which the Minister requests advice and for the purpose of performing the duties referred to in section 81.

Establishment of  
Industrial  
Relations  
Advisory  
Committee

(2) The Advisory Committee shall comprise a Chairman, and such other members as the Governor-General may determine, appointed from among persons representing—

- (a) Workers' Organisations;
- (b) Employers' Organisations;
- (c) public officers; and
- (d) such other persons as he considers fit.

(3) Appointment as a member of the Advisory Committee shall be published in the *Gazette* and shall be for such period as is specified in the instrument of appointment.

81. It shall be the duty of the Advisory Committee to keep this Act under review with a view to ensuring its development and reform, including in particular the modification of any of the provisions thereof and the elimination of anomalies, and for that purpose to prepare and submit to the Minister, from time to time, specific proposals for changes therein.

Functions of  
Advisory  
Committee

82. (1) For the purposes of this Act, there may be established an Office of Economic and Industrial Research.

Economic and  
industrial research

(2) The functions of the office shall be—

- (a) to collect and compile in accordance with the directions of the Court, information which may be of assistance to the Court in the exercise of its powers and functions under this Act;
- (b) to keep information as collected and compiled up to date; and
- (c) to carry out research in respect of such matters as the Court may direct.

(3) Information collected and compiled and the results of research carried out, under this section shall be furnished to any person, trade union or other organisation desiring to obtain that information or those results.

## Annual reports

83. The President of the Court and the Chairman of the Board shall each, once in each year furnish to the Minister, for presentation to Parliament, a report on the working of so much of this Act as falls within the purview of the Court or of the Board, respectively, as well as of so much of this Act (not directly falling within their purview) as may conveniently be dealt with in the respective reports, including in particular, the extent to which the objects of this Act have been achieved.

Industrial relations  
offences  
—procedure

84. (1) All proceedings for the obtaining of an order against any person in respect of an industrial relations offence shall be instituted by an application to the Court by the employer, the recognised majority union concerned, if any, or, where there is no such union, any union which, at the time of the commission of the industrial relations offence had as members of that union workers employed by the employer.

(2) An application under subsection (1) shall be made within three months from the time when the industrial relations offence took place, and not after.

(3) All penalties for industrial relations offences recovered under this Act shall be paid into the Consolidated Fund.

*Commencement, Repeals and Savings*Commencement  
and repeals

85. (1) Subject to the provisions of this Part, this Act shall come into force on a date to be fixed by the Governor-General by Proclamation published in the *Gazette* and the former enactments are repealed as from that day.

(2) Subject to this section, the provisions of the former enactments shall continue to apply—

(a) in relation to matters pending before the Court established by those enactments, as well as to matters on appeal therefrom to the Court of Appeal under those enactments;

(b) in relation to appointments and designations made, notices given, documents delivered, decisions and determinations made (including orders or awards of the Court established under the former enactments) and, subject to subsection (8), and to section 86, other things done under the former enactments,

as if this Act had not been passed.

(3) Without prejudice to the operation of section 28 of the Interpretation Act, 1962, the provisions of section 28(3)(b) of that Act shall have effect for the purpose of the operation of any unrepealed or unrevoked enactment in which any reference is made to the former enactments as if this Act was the revision or consolidation of the former enactments. No. 2 of 1962

(4) The provisions of section 7(2) to (9) and of section 12 shall have effect for the purpose of subsection (2)(a) as if those provisions formed part of the former enactments.

(5) All claims for or differences as to recognition pending before the Minister or the Court pursuant to the provisions of the former enactments, as applied by subsection (2), on the date of the commencement of this Act shall be deemed to have been reported to the Board on that date and the provisions of this Act shall apply thereto accordingly.

(6) All matters falling within the definition of "trade dispute" under this Act and pending before the Minister pursuant to the provisions of the former enactments on the date of the commencement of this Act shall be deemed to have been reported to the Minister on that date, and the provisions of this Act shall apply thereto accordingly.

(7) A dispute deemed to have been reported to the Minister under subsection (6) shall, subject to the provisions of this section, be treated as—

(a) a dispute reported by a recognized majority union, where there is in force a collective agreement between the parties to which subsection (8) applies; or

(b) a dispute reported by a trade union under section 51(1)(c) in any other case,

and accordingly the provisions of this Act shall apply thereto.

(8) Collective agreements registered by the Court under the provisions of the former enactments, as applied by subsection (2), and in force immediately prior to the commencement of this Act shall be deemed to have been registered under and in conformity with the provisions of this Act, and the provisions of this Act, instead of the former enactments, shall apply to such agreements.

(3) Without prejudice to the operation of section 28 of the Interpretation Act, 1962, the provisions of section 28(3)(b) of that Act shall have effect for the purpose of the operation of any unrepealed or unrevoked enactment in which any reference is made to the former enactments as if this Act was the revision or consolidation of the former enactments. No. 2 of 1962

(4) The provisions of section 7(2) to (9) and of section 12 shall have effect for the purpose of subsection (2)(a) as if those provisions formed part of the former enactments.

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(a) a dispute reported by a recognized majority union, where there is in force a collective agreement between the parties to which subsection (8) applies; or

(b) a dispute reported by a trade union under section 51(1)(c) in any other case,

and accordingly the provisions of this Act shall apply thereto.

(8) Collective agreements registered by the Court under the provisions of the former enactments, as applied by subsection (2), and in force immediately prior to the commencement of this Act shall be deemed to have been registered under and in conformity with the provisions of this Act, and the provisions of this Act, instead of the former enactments, shall apply to such agreements.

Transitional  
provisions

86. (1) Where a collective agreement is, at the commencement of this Act deemed to have been registered under section 85(8), the trade union that is a party thereto shall be deemed to be recognised as the bargaining agent for workers comprised in the bargaining unit contemplated by the collective agreement; and the Board shall issue a certificate of recognition to that trade union as the recognised majority union with respect to that bargaining unit under and for the purposes of this Act.

(2) Where there is no collective agreement deemed to have been registered under section 85(8), the Minister shall, on the application of the union concerned, issue a certificate to any trade union he is satisfied was recognised immediately before the commencement of this Act, but, so however that if it appears to the Minister that more than one trade union was so recognised he shall refer to the Board the question as to which trade union is to be recognised for the purposes of this Act; and the Board shall proceed to hear and determine such question as if applications for certification for recognition had been made by the several trade unions concerned under Part 3.

(3) Upon the presentation of such a certificate to the Board, the Board shall issue a certificate of recognition to that trade union as the recognised majority union under and for the purposes of this Act, but so however that the Board may determine the appropriateness of the bargaining unit as if an application for certification of recognition was made in accordance with Part 3.

(4) Where a trade union is certified as a recognised majority union in pursuance of this section an application for certification of recognition under Part 3 may not be made earlier than the date on which claims for recognition in place of that union might have been made under the former enactments or earlier than two years from the date this Act comes into operation, whichever first occurs.

Act binds the  
Crown

87. This Act binds the Crown.

## Act to be certified

88. (1) The Clerk of the Senate and the Clerk of the House of Representatives shall certify whether this Act is one the Bill for which has been passed by the Senate and the House, respectively, and at the final vote thereon in the Senate and in the House, respectively, has been supported, in the Senate, by the votes of not less than three-fifths of

all the members of the Senate, and in the House, by the votes of not less than three-fifths of all the members of the House.

(2) The certificates of the Clerk of the Senate and the Clerk of the House of Representatives under subsection (1) duly signed and authenticated by them shall be conclusive evidence that this Act is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House, as provided for in section 5(2) of the Constitution.

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#### SCHEDULE 1

[Sections 2 and 38(5)]

##### ESSENTIAL INDUSTRIES (CATEGORIES)

1. Electricity Service (Generation, Transmission and Distribution)
2. Water and Sewerage Services
3. Fire Service
4. Health Services
5. Hospital Services
6. Sanitation Services (including scavenging)
7. Oil, Gas, Petrochemicals (Exploration, Exploitation, Refining, Manufacture, Distribution, Marketing)
8. Port Operations (Dock and Harbour, Cargo Handling, Ship Building and Repairing)
9. Sugar (Cultivation, Manufacture, Refining)
10. Communications, internal and external (Radio, Telephones, Telegraph, Television, Wireless)
11. Public Bus Transport Service (including Public School Bus Service)

## SCHEDULE 2

[Sections 2 and 67(6)]

## ESSENTIAL SERVICES

1. Electricity Service (Generation, Transmission and Distribution)
2. Water and Sewerage Services
3. Internal Telephone Service
4. External Communications (Telephone, Telegraph, Wireless)
5. Fire Service
6. Health Services
7. Hospital Services
8. Sanitation Services (including scavenging)
9. Public School Bus Service

Passed in the House of Representatives this 14th day of June, 1972.

G. R. LATOUR  
*Clerk of the House*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of 33 members of the House.

G. R. LATOUR  
*Clerk of the House*

Passed in the Senate this 15th day of June, 1972.

J. E. CARTER  
*Clerk of the Senate*

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has ben passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of 17 Senators.

J. E. CARTER  
*Clerk of the Senate*